30 JUL 1968

A NEW
ESSAY
[By the Pennsylvanian FARMER]
ON THE CONSTITUTIONAL POWER OF
GREAT-BRITAIN
OVER THE COLONIES IN
AMERICA;
WITH THE
RESOLVES
OF THE
COMMITTEE
FOR THE PROVINCE OF
PENNSYLVANIA,
AND THEIR
INSTRUCTIONS
To their REPRESENTATIVES
IN ASSEMBLY.

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EXTRACT from the MINUTES of the COMMITTEE.

SATURDAY, JULY 16, [1774.]

THE committee for the [province of *Pennſylvania*] met according to adjournment.

JOHN DICKINSON, Doctor WILLIAM SMITH, JOSEPH READ, JOHN KIDD, ELISHA PRICE, WILLIAM ATLEE, JAMES SMITH, JAMES WILSON, DANIEL BROADHEAD, JOHN OKELY, and WILLIAM SCULL, are appointed to prepare and bring in a draught of inſtructions.

Monday, July 18*. The committee appointed to bring in inſtructions, reported, that they had made a draught, which they laid upon the table.

Moved, That they be read,—which was done.

Tueſday, July 19. Upon a motion made and ſeconded, agreed, that the draught of inſtructions brought in by the committee, and which were read, be re-committed to the ſame committee.

Wedneſday, July 20. The committee having brought in a draught of inſtructions, the ſame were debated, amended and agreed to.

Thurſday, July 21. The inſtructions were ſigned by the chairman.—The committee, in a body, waited on the Aſſembly then ſitting, and preſented the ſame.

It having been moved, that the eſſay of the inſtructions firſt propoſed to be given to the honourable Aſſembly of *Pennſylvania*, by the provincial committe

* The committees of the counties having been invited, by the committee for the city and county of *Philadelphia*, to meet them at *Philadelphia* on the 15th of *July*; this committee thought it their duty, to make ſome preparation in the buſineſs, that was to be laid before the provincial committee by them. On the 4th of *July* they appointed a committee for this purpoſe; and this meaſure enabled thoſe appointed by the provincial committee to bring in a draught ſo ſoon.

aſſembled

assembled at *Philadelphia* the 18th instant might be abridged, leaving out the argumentative part, so as to be more proper for instructions, the same was agreed to; but resolved at the same time, that the whole work ought to be published, as highly deserving the perusal and serious consideration of every friend of liberty within these colonies.

Agreed unanimously, That the thanks * of this committee be given from the chair to JOHN DICKINSON, Esq; for the great assistance they have derived from the laudable application of his eminent abilities to the service of his country in the above performance.

Extract from the Minutes,

CHARLES THOMSON, *Clerk of the Committee.*

* Mr. DICKINSON being absent this day, on account of the funeral of a relation, the next day the chairman, in a very obliging manner, delivered to him from the chair the thanks of the committee; to which he replied:

"Mr. CHAIRMAN,

"I heartily thank this respectable Assembly for the honour they have conferred upon me, but want words to express the sense I feel of their kindness. The mere accidents of meeting with particular books, and conversing with particular men, led me into the train of sentiments, which the committee are pleased to think just; and others, with the like opportunities of information would much better have deserved to receive the thanks, they now generously give. I consider the approbation of this company as an evidence, that they entertain a favourable opinion of my good intentions, and as an encouragement for all to apply themselves, in these unhappy times, to the service of the public, since even small endeavours to promote that service, can find a very valuable reward. I will try, during the remainder of my life, to remember my duty to our common country, and, if it be possible, to render myself worthy of the honour for which I now stand so deeply indebted.

"I thank you, Sir, for the polite and affectionate manner in which you have communicated the sense of the committee to me."

PRE-

PREFACE.

WHEN the committee for preparing a draught of inſtructions was appointed, it was conſidered, whether it would not be proper to form ſome kind of a ſketch, however imperfect it might be, of all the grievances of the colonies, and of courſe of their conſtitutional rights.

SUCH an attempt, tho' very rude, might be improved by better hands; and it ſeemed abſolutely neceſſary, no longer to confine ourſelves to occaſional complaints and partial remedies, but, if poſſible, to attain ſome degree of certainty concerning our lives, liberties and properties.

IT was perceived, that if the inſtructions ſhould be formed on this plan, they would comprehend many and very important poſitions, which it would be proper to introduce, by previouſly aſſigning the reaſons, on which they were founded. Otherwiſe, the poſitions might not appear to the committee to be juſt. From this conſideration it became neceſſary to render the inſtructions long and argumentative; and whoever candidly reflects on the importance of the occaſion, will think ſuch a method very juſtifiable.

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THE draught of inſtructions being brought into the provincial committee and read, and no objection being made to any of the principles aſſerted in them, it was not thought neceſſary, that the argumentative part ſhould continue any longer in them. The committee, that brought in the draught, therefore moved, that this part of the inſtructions might be ſeparated from the reſt. Whereupon the draught was re-committed, for this purpoſe, to the committee, that brought it in. This was done.

SEVERAL additions have been made to the other part, now called "An Eſſay," &c. ſince the vote for publiſhing. The additions are diſtinguiſhed by crotchets thus [ ] and in theſe it was not thought neceſſary to obſerve the ſtile of inſtructions. The notes have been almoſt entirely added ſince the vote.

AUGUST 3, 1774.

RESO-

RESOLUTIONS, &c.

At a provincial meeting *of* deputies *chosen by the several counties, in* Pennsylvania, *held at* Philadelphia, *July* 15, 1774, *and continued by adjournments from day to day.*

PRESENT.

For the city and county of Philadelphia.

THOMAS WILLING,
JOHN DICKINSON,
PETER CHEVALIER,
EDW. PENNINGTON,
THOMAS WHARTON,
JOHN COX,
JOSEPH REED,
THO. WHARTON, jun.
SAMUEL ERWIN,
THOMAS FITZSIMONS,
Dr. WILLIAM SMITH,
ISAAC HOWELL,
ADAM HUBLEY,
GEORGE SCHLOSSER,
SAMUEL MILES,
THOMAS MIFFLIN,
CHRISTOPH. LUDWIC,
JOSEPH MOULDER,
ANTH. MORRIS, jun.
GEORGE GRAY,
JOHN NIXON,
JACOB BARGE,
THOMAS PENROSE,
JOHN M. NESBIT,
JONATHAN B. SMITH,
JAMES MEASE,
THOMAS BARCLAY,
BENJAMIN MARSHALL,
SAMUEL HOWELL,
WILLIAM MOULDER,
JOHN ROBERTS,
JOHN BAYARD,
WILLIAM RUSH,
CHARLES THOMSON.

Bucks.

JOHN KIDD, JOHN WILKINSON,
HENRY WYNKOOP, JAMES WALLACE.
JOSEPH KIRKBRIDE,

Chester.

FRAN. RICHARDSON, HUGH LLOYD,
ELISHA PRICE, JOHN SELLERS,
JOHN HART, FRANCIS JOHNSON,
ANTHONY WAINE, RICHARD REILEY.

Lancaster.

GEORGE ROSS, EMANUEL CARPENTER
JAMES WEBB, WILLIAM ATLEE,
JOSEPH FERREE, ALEXANDER LOWRY,
MATTHIAS SLOUGH, MOSES ERWIN.

York.

JAMES SMITH, THOMAS HARTLEY.
JOSEPH DONALDSON,

Cumberland.

JAMES WILSON, WILLIAM IRVINE.
ROBERT MAGAW,

Berks.

EDWARD BIDDLE, THOMAS DUNDAS,
DANIEL BROADHEAD, CHRISTOPH. SCHULTZ.
JONATHAN POTTS,

Northampton.

WILLIAM EDMUNDS, JOHN OKELEY,
PETER KECHLEIN, JACOB ARNDT.

Northumberland.

WILLIAM SCULL, SAMUEL HUNTER.

Bedford.

GEORGE WOODS.

Westmoreland.

ROBERT HANNAH, JAMES CAVETT.

THOMAS

THOMAS WILLING, Chairman.

CHARLES THOMSON, Clerk.

AGREED, that in case of any difference in sentiment, the question be determined by the deputies voting by counties.

THE letters from *Boston* of the 13th of *May* were then read, and a short account given of the steps taken in consequence thereof, and the measures now pursuing in this and the neighbouring provinces; after which the following RESOLVES were passed.

UNAN. I. THAT we acknowledge ourselves, and the inhabitants of this province, liege subjects of his majesty king *George* the Third, to whom they and we owe and will bear true and faithful allegiance.

UNAN. II. That as the idea of an unconstitutional independence on the parent state is utterly abhorrent to our principles, we owe the unhappy differences between *Great Britain* and the Colonies with the deepest distress and anxiety of mind, as fruitless to her, grievous to us, and destructive of the best interests of both.

UNAN. III. That it is therefore our ardent desire, that our ancient harmony with the mother country should be restored, and a perpetual love and union subsist between us, on the principles of the constitution, and an interchange of good offices, without the least infraction of our mutual rights.

UNAN. IV. That the inhabitants of these colonies are entitled to the same rights and liberties WITHIN these colonies, that the subjects born in *England* are entitled to WITHIN that realm.

UNAN. V. That the power assumed by the parliament of *Great Britain* to bind the people of these colonies, "by statutes IN ALL CASES WHATSOEVER," is unconstitutional; and therefore the source of these unhappy differences.

UNAN. VI. That the act of parliament, for shutting up the port of *Boston*, is unconstitutional; oppressive to the inhabitants of that town; dangerous to the liberties of the *British* colonies; and therefore, that we consider our brethren at *Boston* as suffering in the common cause of these colonies.

UNAN. VII. That the bill for altering the administration of justice in certain criminal

minal cases within the province of *Massachusetts-Bay*, if passed into an act of parliament, will be as unconstitutional, oppressive and dangerous, as the act above-mentioned.

UNAN. VIII. That the bill for changing the constitution of the province of *Massachusetts Bay*, established by charter, and enjoyed since the grant of that charter, if passed into an act of parliament, will be unconstitutional and dangerous in its consequences to the *American* colonies.

UNAN. IX. That there is an absolute necessity, that a congress of deputies from the several colonies be immediately assembled, to consult together, and form a general plan of conduct to be observed by all the colonies, for the purposes of procuring relief for our suffering brethren, obtaining redress of our grievances, preventing future dissensions, firmly establishing our rights, and restoring harmony between *Great Britain* and her colonies on a constitutional foundation.

UNAN. X. That, although a suspension of the commerce of this large trading province, with *Great Britain*, would greatly distress multitudes of our industrious inhabitants,

habitants, yet that ſacrifice and a much greater we are ready to offer for the preſervation of our liberties; but, in tenderneſs to the people of *Great Britain*, as well as of this country, and in hopes that our juſt remonſtrances will, at length, reach the ears of our gracious ſovereign, and be no longer treated with contempt by any of our fellow ſubjects in *England*, it is our earneſt deſire, that the congreſs ſhould firſt try the gentler mode of ſtating our grievances, and making a firm and decent claim of redreſs.

XI. Resolved, by a great majority, That yet notwithſtanding, as an unanimity of counſels and meaſures is indiſpenſably neceſſary for the common welfare, if the congreſs ſhall judge agreements of non-importation and non-exportation expedient, the people of this province will join with the other principal and neighbouring colonies, in ſuch an aſſociation of non-importation from and non-exportation to *Great Britain* as ſhall be agreed on, at the congreſs.

XII. Resolved, by a majority, That if any proceedings of the parliament, of which notice ſhall be received, on this continent, before or at the general congreſs, ſhall ren-

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der it neceſſary in the opinion of that congreſs, for the colonies to take farther ſteps than are mentioned in the *eleventh* reſolve; in ſuch caſe, the inhabitants of this province ſhall adopt ſuch farther ſteps, and do all in their power to carry them into execution.

UNAN. XIII. That the venders of merchandize of every kind, within this province, ought not to take advantage of the reſolves relating to non-importation in this province or elſewhere; but that they ought to ſell their merchandize, which they now have, or may hereafter import, at the ſame rates they have been accuſtomed to do within three months laſt paſt.

UNAN. XIV. That the people of this province will break off all trade, commerce, and dealing, and will have no trade, commerce, or dealing of any kind with any colony on this continent, or with any city or town in ſuch colony, or with any individual in any ſuch colony, city, or town, which ſhall refuſe, decline, or neglect to adopt, and carry into execution ſuch general plan as ſhall be agreed to in congreſs.

UNAN. XV. That it is the duty of every member of this committee to promote, as much as he can, the ſubſcription

ſet

set on foot, in the several counties of this province, for the relief of the distressed inhabitants of *Boston*.

UNAN. XVI. That this committee give instructions on the present situation of public affairs to their representatives, who are to meet next week in Assembly, and request them to appoint a proper number of persons to attend a congress of deputies from the several colonies, at such time and place as may be agreed on, to effect one general plan of conduct, for attaining the great and important ends mentioned in the *ninth* resolve.

INSTRUCTIONS

INSTRUCTIONS

From the COMMITTEE to the REPRESENTATIVES in ASSEMBLY met.

GENTLEMEN,

THE diſſenſions between *Great Britain* and her colonies on this continent, commencing about ten years ago, ſince continually encreaſing, and at length grown to ſuch an exceſs as to involve the latter in deep diſtreſs and danger, have excited the good people of this province to take into their ſerious conſideration the preſent ſituation of public affairs.

The inhabitants of the ſeveral counties qualified to vote at elections, being aſſembled on due notice, have appointed us their deputies; and in conſequence thereof, we being in provincial committee met, eſteem it our indiſpenſible duty, in purſuance of the truſt repoſed in us, to give you ſuch inſtructions, as, at this important period, appear to us to be proper.

We, ſpeaking in their names and our own, acknowledge ourſelves liege ſubjects of his majeſty king *George* the *third*, to whom "we will be faithful and bear true allegiance."

Our judgments and affections attach us, with inviolable loyalty, to his majeſty's perſon, family and government.

We acknowledge the prerogatives of the ſovereign, among which are included the great powers of making peace and war, treaties, leagues and alliances *binding us*—of appointing all officers, except in caſes where other proviſion is made, by grants from the crown, or laws approved by the crown—of confirming or annulling every act of our aſſembly within the allowed time—and of hearing and determining finally, in council, appeals from our courts of juſtice. "The prerogatives are limited," * as a learned judge obſerves, "by bounds ſo certain and notorious, that it is impoſſible to exceed them, without the conſent of the people on the one hand, or without, on the other, a violation of that *original contract*†, which, in all ſtates impliedly,

* 1 *Blackſtone*, 237.

† And though we are ſtrangers to the original of moſt ſtates, yet we muſt not imagine that what has been here ſaid, concerning the manner in which civil ſocieties are formed, is an arbitrary fiction. For ſince it is certain, that all civil ſocieties had a beginning, it is impoſſible to conceive, how the members, of which they are compoſed, could unite to live together dependent on a ſupreme authority, without ſuppoſing the covenants abovementioned.

BURLEMAQUI's *Princ. of pol. law, vol.* 2. *p.* 20.

And in fact, upon conſidering the primitive ſtate of man, it appears moſt certain, that the appellations of ſovereigns and ſubjects, maſters and ſlaves, are unknown to nature. Nature has made us all of the ſame ſpecies, all equal, all free and independent of each other; and was willing that thoſe, on whom ſhe has

pliedly, and in ours moſt expreſſly, ſubſiſts between the prince and ſubject.—For theſe prerogatives are veſted in the crown *for the ſupport of ſociety*, and do not in-

 trench

has beſtowed the ſame faculties, ſhould have all the ſame rights. It is therefore beyond all doubt that in this primitive ſtate of nature, no man has of himſelf an original right of commanding others, or any title to ſovereignty.

There is none but God alone that has of himſelf, and in conſequence of his nature and perfections, a natural, eſſential, and inherent right of giving laws to mankind, and of exerciſing an abſolute ſovereignty over them. The caſe is otherwiſe between man and man; they are of their own nature as independent of one another, as they are dependent on God. This liberty and independence is therefore a right naturally belonging to man, of which it would be unjuſt to deprive him againſt his will. *Id. p.* 38.

There is a beautiful paſſage of Cicero's to this purpoſe*. *Nothing is more agreeable to the ſupreme Deity, that governs this univerſe, than civil ſocieties lawfully eſtabliſhed.*

When therefore we give to ſovereigns the title of God's vicegerents upon earth, this does not imply that they derive their authority immediately from God, but it ſignifies only, that by means of the power lodged in their hands, and with which the people have inveſted them, they maintain, agreeable to the views of the Deity, both order and peace, and thus procure the happineſs of mankind. *Id. p.* 40.

But it will be here objected, that the ſcripture itſelf ſays, that every man ought to be ſubject to the ſupreme powers, becauſe they are eſtabliſhed by God†.

* Nihil eſt illi principi Deo, qui omnem hunc mundum regit, quod quidem in terris fiat acceptius, quam conſilia cœtuſque hominum jure ſociati, quæ civitates appellantur. *Somn. Scip. c.* 3.

† Rom. xiii.

I anſwer,

trench any farther on our *natural* liberties, than is expedient for the maintenance of our *civil*."

But it is our misfortune, that we are compelled loudly to call your attention to the conſideration of another power, totally different in kind—limited, as it is alledged, by no "bounds," and * "wearing a moſt dreadful aſpect," with regard to *America*. We mean the power claimed by parliament, of right, to bind the people of theſe colonies by ſtatutes, "IN ALL

I anſwer, with *Grotius*, that men have eſtabliſhed civil ſocieties, not in conſequence of a divine ordinance, but of their voluntary motion, induced to it by the experience they had had of the incapacity which ſeparate families were under, of defending themſelves againſt the inſults and attacks of human violence. From thence (he adds) ariſes the civil power, which *St. Peter*, for this reaſon, calls *a human* power *, tho' in other parts of ſcripture it bears the name of a divine inſtitution†, becauſe God has approved of it as an eſtabliſhment uſeful to mankind ‡.

All the other arguments, in favour of the opinion we have been here refuting, do not even deſerve our notice. In general, it may be obſerved, that never were more wretched reaſons produced than upon this ſubject, as the reader may be eaſily convinced by reading *Puffendorf* on the law of nature and nations, who, in the chapter correſponding to this, gives theſe arguments at length, and compleatly refutes them §.

Id. p. 42, 43.

* 1 *Blackſtone* 270.

* 1 Ep. c. 2. v. 13. † Rom. xiii. 1.
‡ Grotius of the right of war & peace, b. I. c. 4. § 7, 12. No. 3.
§ See the law of nature and nations, book VII. c. 3.

CASES

CASES WHATSOEVER"—a power, as we *are not*, and from local circumſtances, *cannot* be repreſented there, utterly ſubverſive of our natural and civil liberties—paſt events and reaſon convincing us, that there never exiſted, and never can exiſt, a ſtate *thus* ſubordinate to another, and yet retaining the ſlighteſt portion of freedom or happineſs.

The import of the words above quoted needs no deſcant; for the wit of man, as we apprehend, cannot poſſibly form a more clear, conciſe, and comprehenſive *definition* and *ſentence* of ſlavery, than theſe expreſſions contain.

This power claimed by *Great Britain*, and the late attempts to exerciſe it over theſe colonies, preſent to our view two events, one of which muſt *inevitably* take place, if ſhe ſhall continue to inſiſt on her pretenſions. Either, the coloniſts will ſink from the rank of freemen into the claſs of ſlaves, overwhelmed with all the miſeries and vices, proved by the hiſtory of mankind to be inſeparably annexed to that deplorable condition: Or, if they have ſenſe and virtue enough to exert themſelves in ſtriving to avoid this perdition, they muſt be involved in an oppoſition dreadful even in contemplation.

Honour, *juſtice*, and *humanity* call upon us to hold, and to tranſmit to our poſterity,

rity, that liberty, which we received from our ancestors. It is not our duty to leave wealth to our children. But it is our duty to leave liberty to them. No infamy, iniquity, or cruelty, can exceed our own, if we, born and educated in a country of freedom, entitled to its blessings, and knowing their value, pusillanimously deserting the post assigned us by divine Providence, surrender succeeding generations to a condition of wretchedness, from which no human efforts, in all probability, will be sufficient to extricate them; the experience of all states mournfully demonstrating to us, that when arbitrary power has been established over them, even the wisest and bravest nations, that ever flourished, have, in a few years, degenerated into abject and wretched vassals.

So alarming are the measures already taken for laying the foundations of a despotic authority of *Great Britain* over us, and with such artful and incessant vigilance is the plan prosecuted, that unless the present generation can interrupt the work, *while it is going forward*, can it be imagined, that our children, debilitated by our imprudence and supineness, will be able to overthrow it, *when compleated*? Populous and powerful as these Colonies may grow, they will still find arbitrary domination not only strengthening with

their

their ſtrength, but exceeding, in the ſwiftneſs of its progreſſion, as it ever has done, all the artleſs advantages that can accrue to the governed. *Theſe* advance with a regularity, which the divine author of our exiſtence has impreſſed on the laudable purſuits of his creatures: But deſpotiſm*, unchecked and unbounded by *any laws*—never ſatisfied with what has been done, while any thing remains to be done, for the accompliſhment of its purpoſes—con-

* As virtue is neceſſary in a republic, and in a monarchy honour, ſo fear is neceſſary in a deſpotic government: with regard to virtue, there is no occaſion for it, and honour would be extremely dangerous.

Here the immenſe power of the prince is devolved intirely upon thoſe to whom he is pleaſed to entruſt it. Perſons capable of ſetting a value upon themſelves would be likely to create revolutions. Fear muſt therefore depreſs their ſpirits, and extinguiſh even the leaſt ſenſe of ambition.

MONT. *Spir. of Laws, vol.* 1. *b.* III. *ch.* 9.
An idea of deſpotic power.

When the ſavages of Louiſiana are deſirous of fruit, they cut the tree to the root, and gather the fruit*. This is an *emblem* of deſpotic government. *Id. book* V. *c.* 13.

The principle of deſpotic government is fear; but a timid, ignorant, and faint ſpirited people have no occaſion for a great number of laws.

Every thing ought to depend here on TWO or THREE ideas; therefore there is no neceſſity that any new notions ſhould be added. When we want to break a horſe, we take care not to let him change his maſter, his leſſon, or his pace. Thus an impreſſion is made on his brain by two or three motions, and no more.

Id. book V. *ch.* 14.

* Edifying letters, 22 coll. p. 325.

flame, and capable of confiding, only to the annihilation of all opposition,—bold to course with such devastating and destructive rapidity, that the world has become its prey, and at this day, *Great Britain* and her dominions excepted, there is scarce a spot on the globe inhabited by civilized nations, where the vestiges of freedom are to be observed.

To us therefore it appears, at this alarming period, our duty to God, to our country, to ourselves, and to our posterity, to exert our utmost ability, in promoting and establishing harmony between *Great Britain* and these colonies, on A CONSTITUTIONAL FOUNDATION.

For attaining this great and desirable end, we request you to appoint a proper number of persons to attend a congress of deputies from the several colonies, appointed, or to be appointed, by the representatives of the people of the colonies respectively in assembly, or convention, or by delegates chosen by the counties generally in the respective colonies, and met in provincial conventions, at such time and place as shall be generally agreed on: And that the deputies from this province may be induced and encouraged to concur in such measures as may be devised for the common welfare, we think it proper, particularly to inform you, how far, we apprehend, they will be supported in their conduct by their constituents. [*In*

[*The above plan was referred the consideration of the Congress, which in this publication is called the "Bill of Rights."*]

The assumed parliamentary power of internal legislation, and the power of regulating trade, as of late exercised, and designed to be exercised, we are thoroughly convinced, will prove unfailing and plentiful sources of dissentions to our mother country and these colonies, unless some expedients can be adopted to render her secure of receiving from us every emolument, that can in justice and reason be expected, and us secure in our lives, properties, and an equitable share of commerce.

Mournfully revolving in our minds the calamities, that, arising from these dissentions, will most probably fall on us and our children, we will now lay before you the particular points we request of you to procure, if possible, to be finally decided; and the measures that appear to us most likely to produce such a desirable period of our distresses and dangers. We therefore desire of you—

First. That the deputies you appoint, may be instructed by you strenuously to exert themselves, at the ensuing Congress, to obtain a renunciation, on the part of *Great Britain*, of all powers under the statute of the 35th of *Henry* the Eighth, chapter the second,—of all powers of in-

ternal legislation—of imposing taxes or duties internal or external—and of regulating trade, except with respect to any new articles of commerce, which the Colonies may hereafter raise, as silk, wine, &c. reserving a right to carry these from one colony to another—a repeal of all statutes for quartering troops in the Colonies, or subjecting them to any expence on account of such troops—of all statutes imposing duties to be paid in the Colonies, that were passed at the accession of his present majesty, or before this time, which ever period shall be judged most advisable—of the statutes giving the courts of admiralty in the colonies greater power than courts of admiralty have in *England*—of the statutes of the 5th of *George* the Second, chapter the 22d, and of the 23d of *George* the Second, chapter the 29th—of the statute for shutting up the port of Boston—and of every other statute particularly affecting the province of *Massachusetts Bay*, passed in the last session of parliament.

In case of obtaining these terms, it is our opinion, that it will be reasonable for the colonies to engage their obedience to the acts of parliament, commonly called the acts of navigation, and to every other act of parliament declared to have force, at this time, in these colonies, other than

those

those above-mentioned, and to confirm such statutes by acts of the several assemblies. It is also our opinion, that taking example from our mother country, in abolishing the "courts of wards and liveries, tenures in capite, and by knight's service, and purveyance," it will be reasonable for the colonies, in case of obtaining the terms before-mentioned, to settle a certain annual revenue on his majesty, his heirs and successors, subject to the controul of parliament, and to satisfy all damages done to the *East India* company.

This our idea of settling a revenue, arises from a sense of duty to our sovereign, and of esteem for our mother country. We know and have felt the benefits of a subordinate connexion with her. We neither are so stupid as to be ignorant of them; nor so unjust as to deny them. We have also experienced the pleasures of gratitude and love, as well as advantages from that connexion. The impressions are not yet erased. We consider her circumstances with tender concern. We have not been wanting, when constitutionally called upon, to assist her to the utmost of our abilities; insomuch that she has judged it reasonable to make us recompences for our overstrained exertions: and we now think

we ought to contribute more than we do, to the alleviation of her burthens.

Whatever may be ſaid of theſe propoſals, on either ſide of the *Atlantic*, this is not a time, either for timidity or raſhneſs. We perfectly know, that the great cauſe now agitated, is to be conducted to a happy concluſion, only by that well tempered compoſition of counſels, which firmneſs, prudence, loyalty to our Sovereign, reſpect to our parent State, and affection to our native country, united, muſt form.

By ſuch a compact, *Great Britain* will ſecure every benefit, that the parliamentary wiſdom of ages has thought proper to attach to her. *From her alone* we ſhall continue to receive manufactures. *To her alone* we ſhall continue to carry the *vaſt multitude of enumerated articles* of commerce, the exportation of which her policy has thought fit to *confine to herſelf*. *With ſuch parts of the world only*, as ſhe has appointed us to deal, we ſhall continue to deal; and *ſuch commodities only*, as ſhe has permitted us to bring from them, we ſhall continue to bring. The *executive* and *controuling* powers of the crown will retain their preſent full force and operation. We ſhall contentedly labour for her as affectionate *friends*, in time of tranquility;

guility; and cheerfully ſpend for her, as dutiful *children*, our treaſure and our blood, in time of war. She will receive a *certain income* * from us, without the trouble or expence

* The train of Officers, employed by *Great Britain*, conſume a very large part of what ſhe takes from us. She therefore increaſes our diſtreſſes to make up for that conſumption. They will hereafter grow more and more oppreſſive, we more and more uneaſy, ſhe more and more diſturbed. We could raiſe the ſame ſum in a much more *eaſy*, *equal*, and *cheap* manner, than ſhe can do. The attention of ſmall ſtates extends much more efficaciouſly and beneficially to every part of the territories, than that of the adminiſtration of a vaſt empire. The repreſentatives in aſſembly, WHO ARE TAXED, WHEN THE PEOPLE ARE TAXED, AND ACCOUNTABLE TO THEM, will have double motives to take care, that the *raiſing* and *expending* money is managed in the beſt way. The Houſe of Commons would not bear to examine *every particular* relating to the juſt taxation of *every county* on this continent, and to *ſettle all the accounts fairly*. If they could go through the immenſe labour, it would be impoſſible for them to do any other buſineſs. In ſhort, by not doing it, they would be *unjuſt*; by doing it they would be *uſeleſs*. Equity and reaſon demonſtrate that ſuch a power belongs not to them. We have had ſome remarkable inſtances on this continent ſome few years ago, of the crown being *according to all the forms of buſineſs* charged with articles, that never went to the uſe of the crown. Theſe were *perquiſites*, and who could be ſo puritanical as to blame the civil word. It is ſaid, our barracks coſt about £8000 of this money—and that the barracks at *another place*, not deſerving a compariſon with ours, coſt £.40,000 ſterling. We built our own, *ourſelves*, and were as ſaving and careful as we could be,

it

expence of collecting it—without being constantly disturbed by complaints of grievances, which she cannot justify, and will not redress. In case of war, or in any emergency of distress to her, we shall also

be

it may be supposed. If money is raised upon us by parliament; of *one* thousand pounds, taken out of our pockets, not one hundred, in all probability, will be usefully applied to the service of the crown. Deficiencies will ensue—they *must* be supplied—other acts are made—still others—till our "* *unrepresented Wealth of gulf*," too frequently and closely cut down and exposed to the burning heat of an unfetting Sun, over "*its meridian*," perish to their deepest roots.

"There is not upon earth (says the excellent *Gordon*) a nation, which having had *unaccountable* "magistrates, has not felt them to be crying and "calumnious mischiefs. In truth, where they are "most limited, it has been often as much as a whole "people could do to restrain them to their trust, and "to keep them from violence; and such frequently "has been their propensity to be lawless, that nothing "but a violent death could cure them of their vio-"lence. This evil has its root in human nature; "men *will never think they have enough*, whilst they "can take more; *nor be content with a part*, when "they can seize the whole †."

"That the business of most kingdoms has been ill "managed, proceeds from this; it imports the *lower* "rank of men only, and the *people* (whose cries sel-"dom reach the prince, till it is too late, and till all "is past remedy) that matters should be *frugally* or-"dered, because taxes must arise from *their* sweat and "labour. But the *great* ones, who heretofore have "had the prince's ear and favour, or who hoped to

"have

* Speech of Lord Camden. 1 Blackstone 270.

† CATO'S LETT. III. 78.

be ready and willing to contribute all aids within our power; and we solemnly declare, that on such occasions, if we or our posterity shall refuse, neglect or decline thus to

"have him in their possession, were swayed by another sort of interest; they like profusion, as having had a prospect to be gainers by it, they can easily set their account even with the state; a *small charge* upon their land is *more* than *balanced* by a *great place*, or a *large pension* *."

See the lord-keeper *North*'s account of abuses in the conduct and *disposal* of the publick money in the time of king *Ch.* II †. Those who, in our times, are the conductors of the same kind of dirty work, may compare the modern ingenious ways and means with those of their worthy predecessors.

Among others, pretended want of money in the treasury, in order to have a pretence for giving an exorbitant price for necessaries. Lending the crown at 8 *per cent.* money which was raised at 5 and 6. Paying with the public money, pretending it to be private, and taking interest. Depreciating the public debts and funds, buying them of the holders at half their worth, and afterwards by interest getting them paid in full. Pretending to give up all power in recommending to places for a consideration, and then insisting on recommending still, and so getting both ways. Rolling over losses upon the crown, or public, while the gain was to sink into private pockets. A father stopping a large sum in his own hand, which was to have been paid the public creditors. Before he can be brought to account he dies. The money sinks into the pocket of his heir. He obtains a pardon of all his father's debts. Gross frauds in office found out. Then new officers and salaries set up as checks. The new prove as great knaves as the old, and

* *Daven.* II, 262. † *Dalrymp.* MEM. II, 84.

to contribute, it will be a mean and manifeſt violation of a plain duty, and a weak and wicked deſertion of the true intereſts of this province, which ever have been and

and form a ſcheme of colluſion and mutual underſtanding. But the public pays for all, and the power of the court is ſtrengthened. An old placeman begs leave to ſell. Pockets the money, and by and by, through intereſt, gets a new place *gratis*. Extravagant men ſquander their own money in their public employments of ambaſſadors, governors, &c. and charge the public with more than they have really ſpent, while what they really ſpent was ten times more than neceſſary. The buſineſs of old offices transferred to new: but the profits of the old ſtill kept up, though become ſinecures. An old ſervant of the public retires upon a penſion. He who ſucceeds him, by intereſt, gets it continued to him. Another gets an addition to his ſalary, and then ſells his place for a great deal more than it coſt him, and ſo an additional load is laid on the public: for the addition muſt be continued, becauſe the place was bought. An annual ſum is granted by the public for a public uſe, as keeping up a harbour, or the like. A private man, by intereſt, gets a grant of the jobb; the public concern is neglected, and the public pocket picked. Crown lands perpetually begged and given away to ſtrengthen the court intereſt. The crown conſtantly kept in debt, and parliament ſolicited to pay thoſe debts occaſioned merely by the voracity of the court. Commanders of fleets order a ſuperfluous quantity of ſtores. By colluſion between them and the ſtore-maſters, this ſuperfluous quantity is ſold again to the king, and the money ſunk in their pockets. Sometimes the ſtore-maſters gave receipts for more than was received into the king's ſtores, and the money

and must be bound up in the prosperity of our mother country. Our union, founded on mutual compacts and mutual benefits, will be indissoluble, at least more firm, than an union perpetually disturbed by disputed rights and retorted injuries.

D SECONDLY,

ney was divided among the plunderers. The king's works done by the day, whereas it would have been cheaper by the great. Money pretended to be coined *gratis*. Lists of large sums newly coined produced. But the contrivance was to make the pieces unequal, and then the too heavy pieces were carried back to the mint, and the profit sunk in private pockets, &c.

Secret service is a huge cloak thrown over an immense scene of corruption; and under this cloak we must not peep. Our court-men tell us, there must be large sums expended in this way, and those sums cannot be accounted for; because the *services* done by them must never be *known*. But we find, that the commons, *A. D.* 1708, addressed queen *Anne* for accounts of pensions paid for *secret service* to members of parliament, or to any persons in trust for them; and that 'the queen *ordered* said account to be *laid before* 'the house*.

Contracts are a great fund of ministerial influence. It is well known, that our ministry do not accept the most *reasonable* offer; but the offer which is made by those who have the greatest *parliamentary* interest; and that in war time, every man who *furnishes* for the *government*, is *enriched*; in *France*, the contrary; which shews, that we manage our public money much *worse* than the *French* ministry do theirs. In the late war it is notorious, that several of our *purveyors* and *commissaries* got estates sufficient to set them up for earls and dukes. But as *Burnet* † says, 'the regard that

* Deb. Com. iv. 119. † Hist. own Times, iii. 279.

'in

SECONDLY. If all the terms above-mentioned cannot be obtained, it is our opinion, that the measures adopted by the congress for our relief should *never* be *relinquished* or *intermitted*, until *those* relating to the troops—internal legislation,—imposition of taxes or duties hereafter—the 35th of *Henry* the 8th, chapter the

' is shewn to members of *parliament* among us, causes ' that few *abuses* can be *inquired* into, or *discovered*.'

POL. DISQ. b. v. p. 274—277.

What redress could a poor plundered, unrepresented colony obtain against a *Verres*, supported by a strong parliamentary influence. We know what several governors of *Minorca* have dared to do. A governor of *Gibraltar* has ventured to oppress even the garrison of that important place. The very drudgery of examining accounts would probably secure him. If cast, the injuries could not be recompensed. A successor might prove as bad—"*Victrix provincia plorat.*"

It has been said in *Great Britain*, that Lord *Chatham*, Lord *Camden*, and some other great men, have taught the colonies to despise her authority. But it is as little true as the multitude of invectives vented against the colonies. The constant practice in these publications, is to confound facts and dates, and then to rail. It should be remembered, that the opposition in *America* to the stamp act was fully formed, and the congress held at *New York*, before it was known on this continent, that our cause was espoused by any man of note at home. We should be glad to count such venerable names in the list of our friends. They are the true friends of our mother country, as well as of this; and ages unborn will bless their memory. But if every man in *Great Britain* is carried by the stream of prejudices into sentiments hostile to our freedom, that freedom will not be the less esteemed, or the sooner relinquished by *Americans*.

2d—

2d,—the extenſion of admiralty courts—the port of *Boſton* and the province of *Maſſachuſetts Bay* are obtained. Every modification or qualification of *theſe* points, in our judgment, ſhould be inadmiſſible. To obtain them, we think it may be prudent to ſettle ſome revenue as above-mentioned, and to ſatisfy the *Eaſt India* company.

THIRDLY. If neither of theſe plans ſhould be agreed to, in congreſs, but ſome other of a ſimilar nature ſhall be framed, though on the terms of a revenue, and ſatisfaction to the *Eaſt India* company, and though it ſhall be agreed by the congreſs to admit no modification or qualification in the terms they ſhall inſiſt on, we deſire your deputies may be inſtructed to concur with the other deputies in it; and we will accede to, and carry it into execution as far as we can.

FOURTHLY. As to the regulation of trade—we are of opinion, that by making ſome few amendments, the commerce of the colonies might be ſettled on a firm eſtabliſhment, advantageous to *Great Britain* and them, requiring and ſubject to no future alterations, without mutual conſent. We deſire to have this point conſidered by the congreſs; and ſuch meaſures taken, as they may judge proper.

IN order to obtain redreſs of our common grievances, we obſerve a general in-

clination among the colonies of entering into agreements of non-importation and non-exportation. We are fully convinced that such agreements would withhold very large supplies from *Great Britain*; and no words can describe our contempt and abhorrence of those colonists, if any such there are, who, from a sordid and ill-judged attachment to their own immediate profit, would pursue that, to the injury of their country, in this great struggle for all the blessings of liberty. It would appear to us a most wasteful frugality, that would lose every important possession by too strict an attention to small things, and lose also even these at the last. For our part, we will cheerfully make any sacrifice, when necessary, to preserve the freedom of our country. But other considerations have weight with us. We wish every mark of respect to be paid to his majesty's administration. We have been taught from our youth to entertain tender and brotherly affections for our fellow subjects at home. The interruption of our commerce must distress great numbers of them. This we earnestly desire to avoid. We therefore request, that the deputies you shall appoint may be instructed to exert themselves at the congress, to induce the members of it to consent to make a full and precise state of grievances, and a decent yet firm claim

of

of redreſs, and to wait the event, before any other ſtep is taken. It is our opinion, that perſons ſhould be appointed and ſent home to preſent this ſtate and claim, at the court of *Great Britain*.

If the congreſs ſhould chuſe to form agreements of non-importation and non-exportation immediately, we deſire the deputies from this province will endeavour to have them ſo formed as to be binding upon all, and that they may be PERMANENT, ſhould the public intereſt require it. They cannot be *efficacious*, unleſs they can be *permanent*; and it appears to us that there will be a danger of their being infringed, if they are not formed with great caution and deliberation. We have determined in the preſent ſituation of public affairs to conſent to a ſtoppage of our commerce with *Great Britain* only; but in caſe any proceedings of the parliament, of which notice ſhall be received on this continent, before or at the congreſs, ſhall render it neceſſary, in the opinion of the congreſs, to take further ſteps, the inhabitants of this province will adopt ſuch ſteps, and do all in their power to carry them into execution.

This extenſive power we commit to the congreſs, for the ſake of preſerving that unanimity of counſel and conduct, that alone can work out the ſalvation of theſe

colonies,

colonies, with a ſtrong hope and truſt, that they will not draw this province into any meaſure judged by us, who muſt be better acquainted with its ſtate than ſtrangers, highly inexpedient. Of this kind, we know any other ſtoppage of trade, but of that with *Great Britain*, will be. Even this ſtep we ſhould be extremely afflicted to ſee taken by the congreſs, before the other mode above pointed out is tried. But ſhould it be taken, we apprehend, that a plan of reſtrictions may be ſo framed, agreeable to the reſpective circumſtances of the ſeveral colonies, as to render *Great Britain* ſenſible of the imprudence of her counſels, and yet leave them a neceſſary commerce. And here it may not be improper to take notice, that if redreſs of our grievances cannot be wholly obtained, the extent or continuance of our reſtrictions may, in ſome ſort, be proportioned to the rights we are contending for, and the degree of relief afforded us. This mode will render our *oppoſition* as *perpetual* as our *oppreſſion*, and will be A CONTINUAL CLAIM AND ASSERTION OF OUR RIGHTS. We cannot expreſs the anxiety, with which we wiſh the conſideration of theſe points to be recommended to you. We are perſuaded, that if theſe colonies fail of unanimity or prudence in forming their reſolutions, or of fidelity in obſerving them,

them, the oppoſition by non-importation and non-exportation agreements will be ineffectual; and then we ſhall have only the alternative of a more dangerous contention, or of a tame ſubmiſſion.

Upon the whole, we ſhall repoſe the higheſt confidence in the wiſdom and integrity of the enſuing congreſs: And though we have, for the ſatisfaction of the good people of this province, who have choſen us for this expreſs purpoſe, offered to you ſuch inſtructions, as have appeared expedient to us, yet it is not our meaning, that by theſe, or by any you may think proper to give them, the deputies appointed by you ſhould be reſtrained from agreeing to any meaſures that ſhall be approved by the congreſs. We ſhould be glad the deputies choſen by you could, by their influence, procure our opinions hereby communicated to you to be as nearly adhered to as may be poſſible: But to avoid difficulties, we deſire that they may be inſtructed by you, to agree to any meaſures that ſhall be approved by the congreſs, the inhabitants of this province having reſolved to adopt and carry them into execution.—Laſtly—We deſire the deputies from this province, may endeavour to procure an adjournment of the congreſs to ſuch a day as they ſhall judge proper,

proper, and the appointment of a ſtanding committee.

Agreed, that *John Dickinſon*, *Joſeph Read*, and *Charles Thomſon*, be a committee to write to the neighbouring colonies, and communicate to them the reſolves and inſtructions.

Agreed, that the committee for the city and county of *Philadelphia*, or any fifteen of them, be a committee of correſpondence for the general committee of this province.

Extract from the Minutes.

CHARLES THOMSON, *Cl. Com.*

AN

AN

ESSAY*, &c.

THE authority of parliament has within theſe few years been a queſtion much agitated; and great difficulty, we underſtand, has occured, in tracing the line between the rights of the mother country and thoſe of the colonies. The modern doctrine of the former is indeed truly remarkable; for though it points out, what *are not* our rights, yet we can never learn from it, what *are* our rights. As for example—*Great Britain* claims a right to take away nine-tenths of our eſtates—have we a *right* to the remaining tenth?

* This piece has been written in ſuch haſte, under ſo great indiſpoſition, and amidſt ſuch a confuſion of public affairs, that it is hoped, its inaccuracies will be looked upon with indulgence. If longer time could have been beſtowed upon its correction, it would have been at leaſt ſhorter, if not more exact. The firſt appointment of a committee to form a draught of inſtructions, was made on the fourth of laſt month. See note on the extract, dated the 18th of July.

No.—To ſay we have, is a "traiterous" poſition, denying her ſupreme legiſlature. So far from *having property*, according to theſe late found novels, *we are ourſelves a property*.

We pretend not to any conſiderable ſhare of learning; but, thanks be to Divine Goodneſs, common ſenſe, experience, and ſome acquaintance with the conſtitution, teach us a few ſalutary truths on this important ſubject.

Whatever difficulty may occur in tracing the line, yet we contend, that by the laws of God, and by the laws of the conſtitution, a line there muſt be, beyond which her authority cannot extend. For all theſe laws are * "grounded on reaſon, full of juſtice †, and true

* *Park. Deb.* 7. 409. "What of that? Shall not we give judgment, becauſe it is not adjudged in the books before? We will give judgment ACCORDING TO REASON, and if there be no reaſon in the books, I will not regard them."

Speech of *Anderſon*, Lord chief juſtice of the queen's bench, in the reign of *Elizabeth*. GOULDEB. REP. 96. *edit.* 1653.

† "It ſeems to me, that the *natural juſtice*, which is a duty of man, ought to be ſtyled the *parent, and nouriſher, of every other virtue*: and aſſuredly, without this habit, a man can neither moderate his deſires, nor be brave, nor wiſe. For, it is a *harmony*, and peace, of the whole ſoul; with a full concert of words, and actions: And the dominion of ſuch a habit may be rendered more con-

true equity," mild, and calculated to promote the freedom and welfare of men. Thefe objects never can be attained by abolifhing every reftriction, on the part of the *governors*, and extinguifhing every right, on the part of the *governed*.

SUPPOSE it be allowed, that the line is not *expreſsly drawn*, is it thence to be concluded, there is no *implied* line? No Engliſh lawyer, we preſume, will venture to make the bold aſſertion. "The King may reject what bills, may make what treaties, may coin what money,

ſpicuous, if we examine the other habits of virtue. For the good of theſe is private, reſpecting the individual; but the good of *natural juſtice* reſpects whole ſyſtems, and throughout the univerſe."—

In the *celeſtial ſyſtem* of the world, as it marſhals out the univerſal rule of things, which are thus decreed by God; it is *providence*, and *harmony*, and *right*. In a *civil ſtate*, it is juſtly called *peace*, and *good order*. In a *domeſtic ſtate*, it is the *like mindedneſs* of huſband, and wife, towards each other; the *good will* of ſubordinate members. In the *body*, it is *health*, and *ſymmetry* of parts; which are principal things, and much beloved by every living creature. In the *ſoul*, it is *wiſdom*; that wiſdom which ariſes amongſt men, from the *knowledge of cauſes*, and from *natural juſtice*.

Since therefore, this habit doth thus inſtruct, and preſerve, the whole and every part; rendering all the ſame, in heart, and in tongue, why may it not be ſaluted, by the univerſal voice; THE PARENT AND NOURISHER OF EVERY VIRTUE?"

POL. PYTH. LUC. *apud* STOBÆUM, pa. 105. *edit. Tiguri*, 1559.

money, may create what peers, and may pardon what offences, HE PLEASES *." But is his prerogative reſpecting theſe branches of it, unlimited? By no means. The words following thoſe next above quoted from the "Commentaries on the Laws of *England*," are—"unleſs where the conſtitution hath *expreſsly*, or *by* EVIDENT CONSEQUENCE, laid down ſome *exception* or BOUNDARY; *declaring*, that thus far the prerogative ſhall go, and no farther." There are "ſome boundaries" then, beſides the "expreſs exceptions;" and according to the ſtrong expreſſion here uſed, "the conſtitution DECLARES there are." What "evident conſequence" forms thoſe "boundaries?"

The happineſs of the people is the end, and, if the term is allowable, we would call it the body of the conſtitution. Freedom is the ſpirit or ſoul. As the ſoul, ſpeaking of nature, has a right to prevent or relieve, if it can, any miſchief to the body of the individual, and to keep it in the beſt health; ſo the ſoul, ſpeaking of the conſtitution, has a right to prevent, or relieve, any miſchief to the body of the ſociety, and to keep that in the beſt health. The "evident conſequence" mentioned, muſt mean a tendency to injure this health, that is to diminiſh the happineſs of the people—or it muſt mean nothing. If, there-

* 1 BLACKST. COM. 250.

therefore, the constitution "DECLARES *by evident consequence*;" that a tendency to diminish the happiness of the people, is a proof, that power exceeds a "boundary," beyond which it ought not to "go;" the matter is brought to this single point, whether taking our money from us without our consent, depriving us of trial by jury, changing constitutions of government, and abolishing the privilege of the writ of *habeas corpus*, by seizing and carrying * us to *England*, have not a greater tendency to diminish our happiness, than any enormities a King can commit under pretence of prerogative, can have to diminish the

* "Of great importance to the public is the preservation of this personal liberty: for if once it were left in the power of any, the highest magistrate, to imprison *arbitrarily*, whomever he or *his officers* thought proper, (as in *France* it is daily practised by the crown) THERE WOULD SOON BE AN END OF ALL OTHER RIGHTS AND IMMUNITIES."--"A natural and regular consequence of this personal liberty is, that every *Englishman* may claim A RIGHT TO ABIDE IN HIS OWN COUNTRY SO LONG AS HE PLEASES, and not to be driven from it unless by the sentence of law. Exile or transportation is a punishment *unknown to the common law*." "The king cannot constitute a man lord lieutenant of *Ireland* against his will, nor make him a foreign ambassador. For this might in reality be no more than an honourable exile." 1 BLACKSTONE 135 to 138.

"These precedents collected by the reverend and learned judge, chief justice Anderson and all written with his own hand, do fully resolve for the maintenance of the *antient* and *fundamental* point of LIBERTY OF THE PERSON, to be regained by *Habeas Corpus*, when any one is imprisoned." Parl. Hist. 7. 418.

the happineſs of the ſubjects in *England*. To come to a deciſion upon this point, no long time need be required. To make this compariſon, is ſtating the claim of parliament in the moſt favourable light: for it puts the *aſſumed* power of parliament, to do, "IN ALL CASES WHATSOEVER," *what they pleaſe*, upon the ſame footing with the *acknowledged* power of the King, "to make what peers—pardon what offences, &c. *he pleaſes*." But in *this* light that power is not entitled to be viewed. Such is the wiſdom of the *Engliſh* conſtitution, that it "declares" the King may tranſgreſs a "boundary laid down by evident conſequence," even by uſing *the power* with which he is *expreſsly* veſted by the conſtitution, in doing *thoſe very acts* which he is *expreſsly* truſted by the conſtitution to do—as by creating too many or improper perſons, peers; or by pardoning too many or too great offences, &c. But has the conſtitution of ENGLAND *expreſsly* "declared," that the parliament of GREAT BRITAIN may take away the money of ENGLISH coloniſts without their conſent, and deprive them of tryal by jury, &c? It cannot be pretended. True it is, that it has been ſolemnly declared by *parliament*, that *parliament has* ſuch a power. But that declaration leaves the point juſt as it was before: For if parliament had not the power before, the declaration could not give it. Indeed if parliament is really "omnipotent

potent *," that power is just and constitutional. We further observe, that the constitution has not *expressly* drawn the line beyond which, if a king shall "go," resistance becomes *lawful*. The learned author of those commentaries, that, notwithstanding some human frailties, do him so much honor, has thought proper, when treating of this subject, to point out the "*precedent*" of the Revolution, as fixing the line. We would not venture any reflection on so great a man. It may not become us. Nor can we be provoked by his expressions concerning colonists; because they perhaps contain his real, though hasty sentiments. Surely, it was not his intention to condemn those excellent men, who casting every tender consideration behind them, nobly presented themselves against the tyranny of the unfortunate and misguided *Charles*'s reign; those men whom the House of Commons, even after the Restoration, would not suffer to be censured.

We are sensible of the objection that may be made, as to drawing a line between rights on each side, and the case of a plain violation of rights. We think it not material. Circumstances have *actually* produced, and may again produce this question.—What conduct of a prince renders resistance lawful? *James* the Second, and his father violated

* 1 Blackstone, 161.

lated *expreſs rights of their ſubjects*, by doing what *their own expreſs rights* gave them no title to do, as by raiſing money, and levying troops, without conſent of parliament. It is not even *ſettled*, what violation of thoſe will juſtify reſiſtance. But may not ſome future prince confining himſelf to the exerciſe of *his own expreſs rights*, ſuch as have been mentioned, act in a manner, that will be a tranſgreſſion of a "boundary" laid down by "evident conſequence," the "conſtitution *declaring* he ſhould go no further?" May not this exerciſe of theſe *his expreſs rights*, be ſo far extended, as to introduce *univerſal confuſion* and a *ſubverſion of the ends of government*? The whole may be oppreſſive, and yet any ſingle inſtance legal. The caſes may be improbable; but we have ſeen and now feel events once as little expected. Is it not *poſſible*, that one of theſe caſes *may* happen; I. it *does*, has the conſtitution *expreſly* drawn a line, beyond which reſiſtance becomes lawful? It has not. But it may be ſaid, a king *cannot arm* againſt his ſubjects—he *cannot raiſe money* without conſent of parliament. This is the conſtitutional check upon him. If he ſhould, it would be a violation of *their expreſs rights*. If *their purſes* are ſhut, *his power* ſhrinks. True. Unhappy coloniſts! Our money may be taken from us—and ſtanding armies eſtabliſhed over us, without our conſent—every *expreſly* declared conſtitutional

tutional check diſſolved, and the modes of oppoſition for relief ſo contracted, as to leave us only the miſerable alternative of ſupplication or violence. And theſe, it ſeems, are the liberties of *Americans*. *Becauſe* the conſtitution has not "*expreſsly declared*" the line between the rights of the mother country and *thoſe* of her coloniſts, THEREFORE, the latter have *no rights*. A logic, equally edifying to the heads and hearts of men of ſenſe and humanity.

WE aſſert, a line there muſt be, and ſhall now proceed, with great deference to the judgment of others, to trace that line, according to the ideas we entertain: And it is with ſatisfaction we can ſay, that the records, ſtatutes, law-books, and moſt approved writers of our mother country, thoſe "dead but moſt faithful counſellors" (as Sir *Edward Coke* calls them) "who cannot be daunted by fear, nor muzzled by affection, reward, or hope of preferment, and therefore may ſafely be believed," confirm the principles we maintain.

LIBERTY, life, or property, can, with no conſiſtency of words or ideas, be termed a *right* of the *poſſeſſors*, while *others* have a *right* of taking them away *at pleaſure*. The moſt diſtinguiſhed authors, that have written on government, declare it to be "inſtituted *for*

the benefit of the people; and that it never will have this tendency, where it is *unlimited.*" Even conqueſt * itſelf is held not to deſtroy all

* " But in order to ſay ſomething more particular concerning this ſubject, let us obſerve that the natural ſtate of nations in reſpect to each other, is that of ſociety and peace. This ſociety is likewiſe a ſtate of equality and independance, which eſtabliſhes a parity of right between them; and engages them to have the ſame regard and reſpect for one another. Hence the general principle of the law of nations is nothing more than the general law of ſociability, which obliges all nations that have any intercourſe with one another, to practiſe thoſe duties to which individuals are naturally ſubject.

" Theſe remarks may ſerve to give us a juſt idea of that art, ſo neceſſary to the directors of ſtates, and diſtinguiſhed commonly by the name of *polity*. Polity conſidered with regard to foreign ſtates, is that ability and addreſs by which a ſovereign provides for the preſervation, ſafety, proſperity and glory of the nation he governs, by reſpecting the laws of juſtice and humanity; that is, without doing any injury to other ſtates, but rather by procuring their advantage, as much as in reaſon can be expected. Thus the polity of ſovereigns is the ſame as prudence among private people; and as we condemn in the latter any art or cunning that makes them purſue their own advantage to the prejudice of others, ſo the like art would be conſurable in princes, were they bent upon procuring the advantage of their own people by injuring other nations. The *reaſon of ſtate*, ſo often alledged to juſtify the proceedings or enterpriſes of princes, cannot really be admitted for this end, but inaſmuch as it is reconcileable with the common intereſt of nations, or which amounts to the ſame thing, with the unalterable rules of ſincerity, juſtice, and humanity."

" *Grotius* indeed acknowledges that the law of nature is common to all nations; yet he eſtabliſhes a poſitive law of

all the rights of the conquered. Such is the merciful reverence judged by the beſt and

 wiſeſt

of nations contradiſtinct from the law of nature; and reduces this law of nations to a ſort of human law, which has acquired a power of obliging in conſequence of the will and conſent of all or of a great many nations *. He adds, that the maxims of this law of nations are proved by the perpetual practice of people, and the teſtimony of hiſtorians.

" But it has been juſtly obſerved that this pretended law of nations, contradiſtinct from the law of nature, and inveſted nevertheleſs with a force of obliging, whether people conſent to it or not, is a ſuppoſition deſtitute of all foundation †.

" For 1. all nations are with regard to one another in a natural independance and equality. If there be therefore any common law between them, it muſt proceed from God their common ſovereign.

" 2. As for what relates to cuſtoms eſtabliſhed by an expreſs or tacit conſent among nations, theſe cuſtoms are neither of themſelves, nor univerſally, nor always obligatory. For from this only, that ſeveral nations have acted towards one another for a long time after a particular manner in particular caſes, it does not follow that they have laid themſelves under a neceſſity of acting always in the ſame manner for the time to come, and much leſs that other nations are obliged to conform to theſe cuſtoms.

" 3. Again, theſe cuſtoms are ſo much the leſs capable of being an obligatory rule of themſelves, as they may happen to be bad or unjuſt. The profeſſion of a corſair, or

* See Grotius, rights of war and peace: preliminary diſcourſe, §. 18. and book 1. chap. 1. §. 14.

† See Puffendorf, law of nature and nations, book 2. chap. 3. §. 23. th Barbeyrac's notes.

wiſeſt men to be due to human nature, and frequently obſerved even by conquerors themſelves.

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or pirate, was, by a kind of conſent, eſteemed a long while as lawful, between nations that were not united by alliance or treaty. It ſeems likewiſe, that ſome nations allowed themſelves the uſe of poiſoned arms in time of war *. Shall we ſay that theſe are cuſtoms authoriſed by the law of nations, and really obligatory in reſpect to different people? Or ſhall we not rather conſider them as barbarous practices; practices from which every juſt and well governed nation ought to refrain. We cannot therefore avoid appealing always to the law of nature, the only one that is really univerſal, whenever we want to judge whether the cuſtoms eſtabliſhed between nations have any obligatory effect.

" 4. All that can be ſaid on this ſubject is, that when cuſtoms of an innocent nature are introduced among nations; each of them is reaſonably ſuppoſed to ſubmit to thoſe cuſtoms, as long as they have not made any declaration to the contrary. This is all the force or effect that can be given to received cuſtoms; but a very different effect from that of a law properly ſo called."

BURLAMAQ. *Princ. of nat. law*, 1 *vol. p.* 196—199.

' But I will conclude with that which I find reported by Sir *John Davis*, who was the king's ſergeant; and ſo, by the duty of his place, would no doubt maintain, to the uttermoſt of his power, the king's prerogative royal; and yet it was by him thus ſaid, in thoſe reports of his upon the caſe of *taniſtry cuſtoms*,' ' That ' the kings of *England* always have had a monarchy ' royal, and not a monarchy ſignoral; where, under the ' firſt, ſaith he, the ſubjects are free men, and have pro- ' perty in their goods, and freehold and inheritance in ' their lands; but, under the latter, they are as villains

' and

* See Virgil, Æneid, book 10. v. 139. with the 15th note of the Abbe des Fontaines.

In fine, a power of government, in its nature tending to the misery of the people, as a power that is *unlimited*, or in other words, a power *in which the people have no share**, is proved

' and slaves, and have property in nothing. And therefore, saith he, when a royal monarch makes a new conquest, yet, if he receives any of the nation's antient inhabitants into his protection; they, and their heirs after them, shall enjoy their lands and liberties according to the laws.' And there he voucheth this precedent and judgment following, given before *William the Conqueror* himself, *viz.*

' That one *Sherborn*, at the time of the Conquest, being owner of a castle and lands in *Norfolk*, the Conqueror gave the same to one *Warren*, a *Norman*; and, *Sherborn* dying, the heir claiming the same by descent according to the law, it was, before the Conqueror himself, adjudged for the heir, and that the gift thereof by the Conqueror was void *."

PARL. DEBATES, 7 *vol. p.* 384.

See also *Puffendorf's* Law of Nature and Nations, b. 3. ch. 8. and b. 8. ch. 6.

It is held by the best writers, that a conqueror in a just war, acquires not a right to the property of those of the subdued country, who opposed him not, nor of the posterity of those who did: nor can the pretence of obtaining satisfaction for the charges and damages of the war justify such a claim.

* " In a free state, every man, who is supposed *a free agent*, ought to be, in some measure, *his own governor*, and therefore a branch, at least, of the *legislative power ought to reside in the whole body of the people*. And this power, when the territories of the state are small and its citizens easily known,

* See Davis's reports, Lond. 1628, p. 41.

proved to be, by reaſon and the experience of all ages and countries, cannot be a *rightful* or *legal* power. For, as an excellent Biſhop of the

known, ſhould be expreſſed by the people in their aggregate or collective capacity, as was wiſely ordained in the petty republics of *Greece*, and the firſt rudiments of the Roman ſtate. But this will be highly inconvenient when the public territory is extended to any conſiderable degree, and the number of citizens is increaſed. In ſo large a ſtate as ours, it is therefore very wiſely contrived that the people ſhould do that by their repreſentatives, which it is impracticable to perform in perſon."

1 BLACKSTONE 158, 159.

The above quoted words are ſufficient of themſelves to refute the notion of "virtual repreſentation" of *Americans* in parliament.

As to the argument drawn from ſimilitude between the caſe of *thoſe* in *England*, not qualified to vote by their property, though poſſeſſed of a conſiderable ſhare, as proprietors of the funds---the *Eaſt India* company---merchants---manufacturers, &c. and the caſe of coloniſts, the true anſwer is, that there is no reſemblance whatever between the caſes. A few propoſitions will prove it: But it may be proper to premiſe---1ſt. If *repreſentation* was *intended* by the *conſtitution* of *England*, a *complete* repreſentation was intended; for the reaſon of having *any*, requires having a complete one, as being the *beſt*. 2dly.—If a *complete* repreſentation was *intended* by the conſtitution, every *defect* in the repreſentation is *againſt* the *intention* of the *conſtitution*. 3dly. If a reſpectable part of the people in *England* is not repreſented, *it is a defect*. 4thly. If therefore, the *intention* of the *conſtitution* is to be regarded *as the conſtitution*, it involves *a plain abſurdity*, to infer *a greater* defect being *conſtitutional*, from a *ſmaller* defect which is *unconſtitutional*. 5thly. The *intention* of the conſtitution *muſt be* regarded—and *practices inconſiſtent* with its

the Church of *England* argues *, " the *ends of government* cannot be answered by a total diſſolution of all happineſs at preſent, and of all hopes for the future."

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its deſign, muſt be amended by it, if the *happineſs* which it means to promote and ſecure, is to be regarded. 6thly. If there is not ſuch a *repreſentation* in *England*, as the conſtitution requires, there *ought* to be. As to the reſemblance above ſuppoſed. 1ſt. If many inhabitants of *England* HAVE NOT a right to vote in the choice of members of the Houſe of Commons, there are many who HAVE. 2dly. *Not one* inhabitant of the colonies *has* that right. 3dly. *Some* repreſentation is better than *none*, though a *complete* one cannot be obtained. The *firſt* is a *defect* of *mode*, the *latter* an *extinction* of the *ſubſtance*. There is, to a *nice* obſerver of nature, a *perceptible* difference between a *deformed* man and a DEAD man. 4thly. Proprietors of the funds, &c. though they have no right to ſuch vote, *as proprietors*, &c. may yet have it under another character, *as freeholders*, &c. 5thly. When acting *as freeholders*, &c. they may take care of their intereſts *as proprietors*, &c. for—6thly. *Their being proprietors*, &c. does not *diſqualify* them from acquiring and enjoying a right to ſuch vote *by becoming freeholders*, &c. but 7thly. By acquiring and enjoying a right to ſuch vote, the *coloniſts* muſt *ceaſe* to be inhabitants of the colonies.—8thly. Their *being inhabitants of the colonies*, therefore, *diſqualifies* them from acquiring and enjoying the right to ſuch vote. —9thly. If thoſe not entitled to ſuch vote in *England* were not bound by ſtatutes made *there* they would not be bound by ſtatutes, nor taxed *at all*, though poſſeſt of great property—but 10thly. The coloniſts are *bound and taxed* by the acts of their aſſemblies. 11thly. Even thoſe not entitled to ſuch vote in *England*, and incapable of obtaining it, have this protection, that *repreſentatives* and *their electors* are bound by the laws made, as well as *the reſt*

* HOADLEY's Diſc. on government.

THE juſt inference therefore from theſe premiſes would be an excluſion of *any* power of parliament over theſe colonies, rather than the admiſſion of an *unbounded* power.

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reſt of the people—and the connections between the *repreſentatives*, their *electors*, and the *reſt of the people*, all living together in the ſame kingdom, are ſo many and ſo intimate, that even the *actually unrepreſented* cannot be affected, unleſs the *repreſentatives* and *their electors* are affected alſo. 12thly. Totally different is the condition of coloniſts, if bound by ſtatutes generally.—By the acts of parliament for raiſing a revenue in *America*, the Commons uſe the words, "GIVE AND GRANT." Can men give and grant what they have not? Did any of thoſe acts take a ſingle penny out of the pocket of a ſingle GIVER and GRANTOR? No. So far from it, that if there is any truth in the proverb, and money ſaved is money got, theſe "*dona ferentes*" gentlemen put money into their pockets by their * "loyal and dutiful" generoſity. EVERY INDIVIDUAL of them acquired by beſtowing. Pretenſions *thus* to *give*, are ſuch contradictions to fact and ſenſe, that in *making* them, a ſanction of injuſtice is ſought from a principle of the conſtitution, and in *deſcribing* them, a ſoleciſm in ſpeech becomes a proper expreſſion. It muſt be acknowledged however, that the Commons are more than ſound divines, for they improve upon the text, † and "*count* their *loſs* for *gain*."

Statutes might grind us, while not an *elector* in *England* would know or regard our ſufferings—if acquainted with them, he might think the ſtatutes inflicting them, JUST and POLITICAL. An open avowal has been made in parliament—that it is ‡ "the INDISPENSABLE DUTY of parliament,

* Preambles to ſtatutes for raiſing a revenue in *America*.

† *Philippians*, iii. 7.

‡ Theſe words are extracted from the proteſt of the Lords on the repeal of the *American* ſtamp-act—§. 6.—61 Lords were againſt the repeal, 33 of them ſigned the proteſt.

We well know, that the coloniſts are charged by many perſons in *Great-Britain*, with attempting to obtain ſuch an excluſion and a total independance on her. As well we know the accuſation to be utterly falſe. We are become criminal in the ſight of ſuch perſons, by refuſing to be guilty of the higheſt crime againſt ourſelves and our poſterity. NOLUMUS LEGES ANGLIÆ MUTARI. This is the rebellion

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liament *to tax the colonies* IN ORDER TO EASE THE GENTRY AND PEOPLE OF GREAT-BRITAIN." Let not *Americans* ever forget the lordly words! to underſtand them *fully*, we ſhould conſider——

Our diſpute includes not only the preſent taxes laid upon us. The univerſal property of *England* was intereſted in Mr. *Hambden*'s ſuit, about a few ſhillings. If the crown had a right to *thoſe* ſhillings, it had a right to *every* ſhilling of *every* man in the kingdom. *Great-Britain* is about ONE HUNDRED AND FORTY MILLIONS OF POUNDS STERLING in debt. If ſhe can pay *any part* of that debt, by taxing us, ſhe may pay *the whole* by taxing us, if we can raiſe the money. If we cannot, yet as we are upbraided continually in pamphlets and papers with the richneſs of our houſes, our furniture, our equipage, our tables, and our dreſs, ſhe may be made to think we abound too much in theſe *conveniencies*. If we are reduced to the condition of *French* peaſants, it is no matter. We belong to the people of *Great-Britain*: And all *Britiſh* ſubjects, but *Americans*, may do what they pleaſe with their own. "It is her indiſpenſable DUTY, ſay their lordſhips, to eaſe herſelf by taxing us;" and ſurely there is virtue enough left in a *Britiſh* parliament, notwithſtanding all the dreadful intelligence *Britiſh* writers ſend us over, to perform *that* "duty," exactly. But this is not all. There are certain wicked *Frenchmen* and *Spaniards*, that in every pe-

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bellion with which we are ſtigmatized. [We have committed the like offence, that was objected by the polite and humane *Fimbria* againſt a *rude* ſenator of his time. We have *diſreſpectfully* refuſed to receive the *whole* weapon into our body." We could not do it, *and live.*

But

riod of twenty or thirty years oblige *Great-Britain* to add thirty or forty millions to her debt. Upon an average, ſince the Revolution, ſhe runs annually in debt about a million and an half. Can it be expected, her miniſters will be kinder to us than they have been to her? where will the demand upon us, where will our wretchedneſs ſtop, if we have not reſolution enough to defend ourſelves?

A ſtatute intended to have force on the people of *Great-Britain*, is the caſe of A STATE *acting upon* ITSELF. A ſtatute intended to have force on the people of *America*, is the caſe of ONE *ſtate acting upon* ANOTHER. The people of *Great-Britain*, who in the firſt caſe are *ſubjects* to the ſtatute---in the ſecond, are the abſolute ſovereigns *who impoſe* it on others.

"Virtual repreſentation" then, as applied to coloniſts ---is, to borrow expreſſions of the excellent archbiſhop *Tillotſon*, on another occaſion, altering only two words —"An abſurdity of that monſtrous and maſſy weight, that no human authority or wit are able to ſupport it. It will "make the very pillars of St." *Stephens* "crack, and requires more volumes to make it good than would fill" *Weſtminſter Hall.*

Yet this moſt deſpicable notion has been the *pretence for our fellow ſubjects* * clapping muſkets to our breaſts, and taking our money out of our pockets.

* "*Win their hearts*, and you may ſoon have their *hands* and *purſes*," was the advice of old lord *Burleigh* to queen *Elizabeth*. She was wiſe enough to take it. The world knows the conſequences.

But *that* muſt be acknowledged to be a poor excuſe, equally inconſiſtent with good breeding and the ſupreme legiſlature of *Great-Britain*.

For theſe ten years paſt we have been inceſſantly * attacked. Hard is our fate, when to eſcape the character of rebels, we muſt be degraded into that of ſlaves: as if there was no medium, between the two extremes of anarchy and deſpotiſm, where innocence and freedom could find repoſe and ſafety.

Why ſhould we be exhibited to mankind, as a people adjudged by parliament unworthy of freedom? The thought alone is inſupportable. Even thoſe unhappy perſons, who have had the misfortune of being born under the

* 4 Geo. 3. ch. 15. 4 Geo. 3. ch. 34. 5 Geo. 3. ch. 12. 5 Geo. 3. ch. 45. 6 Geo. 3. ch. 12. 6 Geo. 3. ch. 52. 7 Geo. 3. chap. 41. 7 Geo. 3. ch. 46. 7 Geo 3. ch. 59. 8 Geo. 3. ch. 22. The reſolves that coloniſts may be tried in *England* under the 35 Hen. 8.---The blockade of *Boſton*--the *Rhode Iſland* court, &c. The ſtatutes ſince the 8th year of this reign, relating to the colonies, follow one another much in the ſame quick manner as before: but they could not be collected. Many of the ſtatutes here mentioned, particularly thoſe relating to the admiralty courts and the commiſſioners of the cuſtoms, are connected with a multitude of other ſtatutes, by being compared with which the artifices will appear, that gradually departing from the laws of *England*, have at length inveſted theſe courts and commiſſioners with ſuch new, unreaſonable, unconſtitutional and dangerous powers.

yoke of bondage, impoſed by the cruel laws, if they may be called laws, of the land where they received their birth, no ſooner breathe the air of *England*, though they touch her ſhore only by accident, * than they inſtantly become freemen. Strange contradiction †! The *ſame* kingdom at the *ſame* time, the *aſylum* and the *bane* of liberty.

To return to the charge againſt us, we can ſafely appeal to that Being, from whom no thought

* *Somerſet*'s caſe.

† To this contradiction, the following may be added—Her policy, *at once* to keep peace with her *natural enemies*, and to provoke her *natural friends*, whoſe aſſiſtance one day —and that day ſeems to be approaching—in the viciſſitudes of human affairs, great as ſhe is, ſhe may want;—her intereſt, as ſhe thinks, to *protect* and to *oppreſs* PROTESTANT countries—to abhor a *large ſtanding army* and yet voluntarily to put herſelf under the abſolute neceſſity, of perpetuating an *immenſely large one*, to govern the many millions of ſlaves ſhe expects ſoon to have on this vaſt continent. Two of the ſhrewdeſt, though not beſt emperors, that ever lived, *Auguſtus* and *Tiberius*, prohibited every man of diſtinction from ſetting his foot in *Egypt*, * becauſe of the importance of that province to *Rome*. But *Great-Britain*, as if theſe numerous provinces, much more remote from her, than *Egypt* from *Rome*, were of little conſequence, willingly obliges herſelf to truſt a mighty armed power into the hands of a ſubject, in theſe colonies, the tempting intereſt of which ſubject and of the people, may engage them to unite in eſtabliſhing an independent empire, on her own model. *Great-Britain* ought not to forget, that *Rome* was ruined by keeping ſtanding armies in her provinces.

* Tac.

thought can be concealed, that our warmeſt wiſh and utmoſt ambition is, that we and our poſterity may ever remain ſubordinate to, and dependent upon our parent ſtate. This ſubmiſſion our reaſon approves, our affection dictates, our duty commands, and our intereſt enforces.

If this ſubmiſſion indeed implies a diſſolution of our conſtitution and a renunciation of our liberty, we ſhould be unworthy of our relation to her, if we ſhould not frankly declare, that we regard it with * horror; and every

* The *Privernates* had revolted from the *Romans*, but were reduced. The queſtion was, what judgment ſhould be given againſt them. This is *Livy*'s account of the affair, in the 21ſt chapter of his 8th book.

"Quum ipſa per ſe res anceps eſſet, prout cujuſque ingenium erat, atrociùs mitiùſve ſuadentibus; tum incertiora omnia unus ex Privernatibus legatis fecit, magis conditionis, in qua natus eſſet, quàm præſentis neceſſitas, memor: qui, interrogatus à quodam triſtioris ſententiæ auctore, *quam pœnam meritos Privernates cenſeret? eam*, inquit, *quam merentur, qui ſe libertate dignos cenſent*: cujus quum feroci reſponſo infeſtiores factos videret conſul eos, qui antè Privernatium cauſam impugnabant; ut ipſe benignâ interrogatione mitius reſponſum eliceret, *Quid, ſi pœnam*, inquit, *remittimus vobis, qualem nos pacem vobiſcum habituros ſperemus? Si bonam dederitis*, inquit, *& fidam & perpetuam: ſi malam, haud diuturnam.* Tum verò minari, nec id ambiguè, Privernatem quidam, & illis vocibus ad rebellandum incitari pacatos populos, pars melior ſenatûs ad meliora reſponſum trahere, & dicere, *Viri, & liberi, vocem auditam, an credi poſſe, ullum populum, aut hominem denique, in ea conditione, cujus eum pœniteat, diutiùs, quàm neceſſe ſit, manſurum?*

every true *Englishman* will applaud this juſt diſtinction and candid declaration. Our defence neceſſarily touches chords in uniſon with the fibres of his honeſt heart. They muſt vibrate in ſympathetic tones. If we, his kindred, ſhould be baſe enough to promiſe the humiliating ſubjection, he could not believe us. We ſhould ſuffer all the infamy of the engagement, without finding the benefit expected from being thought as contemptible as we ſhould undertake to be.]

But this ſubmiſſion implies not ſuch inſupportable evils: and our amazement is inexpreſſible, when we conſider the gradual increaſe of theſe colonies, from their ſlender beginnings in the laſt century to their late flouriſhing condition, and how prodigiouſly, ſince their ſettlement, our parent ſtate has advanced in wealth, force and influence, till ſhe is become the firſt power on the ſea, and the envy of the world—that theſe our better days ſhould not ſtrike conviction into every mind, that the freedom and happineſs of the coloniſts

manſurum? Ibi pacem eſſe fidam, ubi voluntarii pacati ſint: neque eo loco, ubi ſervitutem eſſe velint, fidem ſperandam eſſe. In hanc ſententiam maximè conſul ipſe inclinavit animos, identidem ad principes ſententiarum conſulares, uti exaudiri poſſet à pluribus, dicendo, *Eos demum, qui nihil, præterquam de libertate, cogitent, dignos eſſe, qui Romani fiant.* Itaque & in ſenatu cauſam obtinuere, & ex auctoritate Patrum latum ad populum eſt, ut Privernatibus CIVITAS DABITUR."

colonists are not inconsistent with her authority and prosperity.

The experience of more than one hundred years will surely be deemed, by wise men, to have some weight in the scale of evidence to support our opinion. We might justly ask of her, why we are not permitted to go on, as we have been used to do since our existence, conferring mutual benefits, thereby strengthening each other, more and more discovering the reciprocal advantages of our connection, and daily cultivating affections, encouraged by those advantages?

[What unknown offences have we committed against her within these ten years, to provoke such an unexampled change in her conduct towards us? In the last war, she acknowledged us repeatedly, to be faithful, dutiful, zealous and useful in her cause. Is it criminal in us, that our numbers, by the favour of Divine Providence, have greatly encreased? That the poor chuse to fly from their native countries in *Europe* to this continent? Or, that we have so much improved these woods, that if we can be forced into an unsuccessful resistance, avarice itself might be satiated with our forfeitures?]

It cannot with truth be urged, that projects of *innovation* have commenced with us. Facts

facts and their dates prove the contrary *. Not a disturbance has happened on any part of this continent, but in consequence of some immediate preceding provocation.

To what purpose? The charge of our affecting one great, or many small republics, must appear as contemptible a madness to her, as it does to us. Divided as we are into many provinces †, and incapable of union, except against

* "The winds lift up the waves,"—said a wise man—yet we read of a weak man, who scourged waves—but he had not raised them. *To excite* commotions, and then to scourge *for being excited*, is an addition to the wildness of a *Xerxes*, reserved more particularly to distinguish the present age, already sufficiently illustrious by the injuries offered to the rights of human nature.

† The genius of a *Beccaria* suggested to him the condition of a large empire verging into servitude—the only plan for saving it—and the difficulty of executing that plan. "An overgrown republic (says he, and such a limited monarchy as that of *Great-Britain* with such an extent of dominions, may well be called "an overgrown republic,") can *only* be saved from despotism, *by subdividing it into a number of confederate republics*. But how is this practicable? By a despotic dictator, who with the courage of *Sylla*, has as much genius for building up, as that *Roman* had for pulling down. If he be an ambitious man, his reward will be immortal glory; if a philosopher, the blessings of his fellow citizens will sufficiently console him for the loss of authority, though he should not be insensible to their ingratitude."

What was argument in *Italy*, is reality to *Great-Britain*, with this additional circumstance in her favour, that she must always continue, if she wisely conducts her affairs, though

againſt a common danger, ſhe knew, that we could not think of embarking our treaſures

though leſs than *all*, yet greater than *any*. The immenſe advantages of ſuch a ſituation are worthy the cloſeſt attention of every *Briton*. To a man, who has conſidered them with that attention, perhaps it will not appear too bold to aver, that, if an archangel had planned the connexion between *Great Britain* and her colonies, he could not have fixed it on a more laſting and beneficial foundation, unleſs he could have changed human nature. A mighty naval power at the head of the whole—that power, a parent ſtate, with all the endearing ſentiments attending the relationſhip—that never could diſoblige, but with deſign—the dependent ſtates much more apt to have feuds among themſelves—ſhe the umpire and controuler—thoſe ſtates producing every article neceſſary to her greatneſs—their intereſt, that ſhe ſhould continue free and flouriſhing—their ability to throw a conſiderable weight into the ſcale, ſhould her government get UNDULY POISED—ſhe and all thoſe ſtates PROTESTANT—are ſome of the circumſtances, that delineated by the maſterly hand of a *Beccaria*, would exhibit a plan, vindicating the ways of heaven, and demonſtrating, that humanity and policy are nearly related. An *Alexander*, a *Cæſar*, a *Charles*, a *Lewis*, and others have fought through fields of blood, for univerſal empire. *Great-Britain* has a certainty, by population and commerce alone, of attaining to the moſt aſtoniſhing and well founded power the world ever ſaw. The circumſtances of her ſituation are new and ſtriking. Heaven has offered to her, glory and proſperity without meaſure. Her wiſe miniſters diſdain to accept them—and prefer—"*a pepper corn* *."

So directly oppoſite to the intereſt of *Great Britain* has the conduct of *adminiſtration* been for ſome time paſt, that it may ſafely be affirmed, that, if their view was to eſtabliſh arbitrary power over *Great Britain*, ſchemes more dangerous could not have been laid. To profeſs this

* Mr. *Nugent*'s ſpeech.

of tranquillity and liberty, on an ocean of blood, in a wandering expedition to ſome *Utopian* port. The hiſtory of mankind, from the remoteſt

this purpoſe, would enſure a defeat. Any man, who had ſuch a deſign, would firſt take the opportunity of peace, TO SET ONE PART OF THE SUBJECT AGAINST THE OTHER.—This might be done in the following manner.

Let every ſeſſion of parliament produce a freſh injury. Give no reſt, or hope of reſt. Let inſult added t inſult fill up the vacancies between the ſeſſions. Teaſe and perſecute into oppoſition. Then let miniſters themſelves rejoice in the freedom of the preſs. Let every action of the oppreſſed be exaggerated. Let innumerable falſe invectives be vented in pamphlets and news-papers. Let all the provocations and excuſes be concealed from public ſight as much as poſſible. Load the devoted with the terms of traitors and rebels. Nearly in this way *Scotland* was treated by the arbitrary miniſtry of *Charles* the Firſt. But the parliament and people of *England* had common ſenſe and virtue. The baſe deception could not paſs upon them. They ſaw the ſnare laid *for them*; and reſented it ſo deeply, that an army of *Engliſhmen* fled before an army of *Scotchmen* at *Newburn*. For once it was glorious to fly. But it required *Engliſh* heads and *Engliſh* hearts to underſtand and to act the part.

Thus the colonies have been treated. At laſt a civil war may be worked up. It ſhould be conſidered, as Lord *Mansfield* expreſſes it—whether "the play is worth the candle." In ſuch a war, every victory will be a defeat. If the colonies are ſubdued, vaſt ſums muſt be raiſed, and a prodigious army muſt be ſupported, to keep them in ſubjection. *Great-Britain* muſt feel the weight of that influence, added to the power of the crown. The colonies are encreaſing. Who can compute the extent and effect

of

moteſt antiquity, furniſhes not a ſingle inſtance of a people conſiſting of huſbandmen

 and

of ſuch an influence *? Undone by her victories, ſhe *muſt* reſign her LIBERTY or ſome future MONARCH WITH HER COLONIES, unleſs ſhe firſt loſes them in another way. If ſhe

* "But, on the other hand, it is to be conſidered, that every prince, in the firſt parliament after his acceſſion, has by long uſage a truly royal addition to his hereditary revenue ſettled upon him for his life; and has never any occaſion to apply to parliament for ſupplies, but upon ſome public neceſſity of the whole realm. This reſtores to him that conſtitutional independence which at his firſt acceſſion ſeems, it muſt be owned, to be wanting. And then, with regard to power, we may find perhaps that the hands of government are at leaſt ſufficiently ſtrengthened; and that an Engliſh monarch is now in no danger of being overborne by either the nobility or the people. The inſtruments of power are not perhaps ſo open and avowed as they formerly were, and therefore are the leſs liable to jealous and invidious reflections; but they are not the weaker upon that account. In ſhort, our national debt and taxes (beſides the inconveniences beforementioned) have alſo in their natural conſequences thrown ſuch a weight of power into the executive ſcale of government, as we cannot think was intended by our patriot anceſtors; who gloriouſly ſtruggled for the abolition of the then formidable parts of the prerogative, and by an unaccountable want of foreſight eſtabliſhed this ſyſtem in their ſtead. *The entire collection and management of ſo vaſt a revenue, being placed in the hands of the crown*, have given riſe to ſuch a multitude of new officers, created by and removeable at the royal pleaſure, that they have extended the influence of government to every corner of the nation. Witneſs the *commiſſioners*, and the *multitude of dependents on the cuſtoms*, in every port of the kingdom; the *commiſſioners of exciſe*, and their *numerous ſubbalterns*, in every inland diſtrict: the *poſtmaſters*, and their *ſervants*, planted in every town, and upon every public road; the *commiſſioners of the ſtamps*, and their *diſtributors*, which are full as ſcattered and full as numerous; the *officers of the ſalt duty*, which, though a ſpecies of exciſe and conducted in the ſame manner, are yet made a diſtinct corps from the ordinary managers of that revenue; the *ſurveyors of houſes and windows*; the *receivers of the land tax*; the *managers of lotteries*; and the *commiſſioners of hackney coaches*; all which are either mediately or immediately appointed by the crown, and removeable at pleaſure without any reaſon aſſigned: theſe, it requires but little penetration to ſee, muſt give that power, on which they depend for ſubſiſtence, an influence moſt amazingly extenſive. To this may be added the frequent opportunities of conferring particular obligations, by preference in *loans*, *ſubſcriptions*, *tickets*, *remittances*, and *other money tranſactions*, which will greatly encreaſe this influence; and that over thoſe perſons whoſe attachment, on account of their wealth, is frequently the moſt deſirable. All this is the natural, though perhaps the unforeſeen, conſequence of erecting our funds of credit, and to ſupport them eſtabliſhing our preſent perpetual taxes: the whole of which is intirely new ſince the Re-

and merchants, voluntarily engaging in such a phrenzy of ambition. No. Our highest pride

she is unfortunate, public calamities may make great changes. Such changes seem to be intended by some men. *Great-Britain* has been led into the *Rubicon*. She has not yet past it. We consider the hostilities already practised, as the manœuvres of a ministerial war. We know the machinations formed against us, and the favourite publications industriously spread abroad, to excite a jealousy of us among our *British* brethren. We know how acceptable to many an earthquake would be to "sink some of the colonies in the ocean"—and how pleasing, to employ the rest "in raising *staple* commodities:" That we are thought "too numerous," and how much it would be judged by some for the interest of *Great-Britain* if a pestilence should sweep off a million and a half of us. These wonderful lucubrations have not escaped us. But here we are, by Divine Providence, three millions of souls. What can be done with with us? If we were to

Restoration in 1660; and by far the greatest part since the Revolution in 1688. And the same may be said with regard to the *officers* in our numerous army, and the places which the army has created. All which put together gives the executive power so persuasive an energy with respect to the persons themselves, and so prevailing an interest with their friends and families, as will amply make amends for the loss of external prerogative.

"But, though this profusion of offices should have no effect on individuals, there is still another newly acquired branch of power; and that is, not the influence only, but the *force of a disciplined army*: paid indeed ultimately by the people, but immediately by the crown; raised by the crown, officered by the crown, commanded by the crown. They are kept on foot it is true only from year to year, and that by the power of parliament; but during that year they must, by the nature of our constitution, if raised at all, be at the absolute disposal of the crown. And there need but few words to demonstrate how great a trust is thereby reposed in the prince by his people. A trust, that is more than equivalent to a thousand little troublesome prerogatives.

"Add to all this, that, besides the *civil list*, the *immense revenue* of almost seven millions sterling, which is annually paid to the creditors of the public, or carried to the sinking fund, is first deposited in the royal exchequer, and thence issued out to the respective offices of payment. This revenue the people can never refuse to raise, because it is made perpetual by act of parliament; which also, when well considered, will appear to be a trust of great delicacy and high importance."

1 BLACKSTONE's Com. b. 1. ch. 8. p. 334—336.

pride and glory has been, with humble unsuſpecting

to be conſidered, only as * PROTESTANT *allies*, we ought to be eſteemed by a wiſe people. Such a people certainly would not be careful to diſunite us from their intereſt—to make us foes when they might have us friends. Some ſtates have thought it true policy to grant greater indulgences to remote dominions, than were enjoyed by themſelves: And this policy has been much applauded. The enjoyment of valuable privileges by inferior ſtates, under the protection of a ſuperior, is the ſtrongeſt bond of dependance Why ſhould we prefer a dependance on *Great-Britain* to a dependance on *France*, if we enjoy leſs freedom under the former, than we may under the latter? "*Firmiſſimum imperium, quo obedientes* GAUDENT"—or as lord chief juſtice *Coke* expreſſes it, in his comment on the 25th of *Edward* the Third, "the ſtate of a king ſtandeth more aſſured by the love and favour of the ſubject, than by the dread and fear of laws, &c." † Ought *Great-Britain* to deſpiſe the advantages the

* *Great Britain* put herſelf to a very conſiderable expence laſt war in defence of *Portugal*, becauſe that kingdom was her ally, and ſhe derived great advantages from an intercourſe with her. But what are thoſe advantages or the affections ariſing from them, when compared to the advantages and affections that connect theſe colonies with *Great Britain*? Words cannot expreſs the ſurprize, that men free from paſſion muſt feel, on conſidering her impolicy, in labouring to diſjoin from herſelf the only true friends ſhe has in the world. If her miniſters were penſioners of *France* and *Spain*, they could not purſue meaſures more pleaſing and advantageous to thoſe kingdoms.

† "During all our happy days of concord, partly from our national moderation, and partly from the wiſdom, and ſometimes perhaps from the careleſſneſs of our miniſters, they have been truſted in a good meaſure with the entire management of their affairs; and the ſucceſs they have met with ought to be to us an ever memorable proof, that THE TRUE ART OF GOVERNMENT CONSISTS IN NOT GOVERNING TOO MUCH. And why ſhould friendſhip and gratitude, and long attachments, which inſpire all the reliſh and ſweetneſs of private life, be ſuppoſed to be of no weight in the intercourſe between great communities? Theſe are principles of human nature, which act with much greater certainty on numbers than on individuals. If properly cultivated they may to us be productive of the nobleſt benefits; and, at all events, will neither leſſen the extent of our power, nor ſhorten the duration of it."

Biſhop of ST. ASAPH's Sermon, p. 13.

ſuſpecting duty * to labour in contributing to elevate her to that exalted ſtation ſhe holds among the nations of the earth, and which, we ſtill ardently deſire and pray, ſhe may hold, with freſh acceſſions of fame and proſperity, till time ſhall be no more.

THESE being our ſentiments, and, we are fully convinced, the ſentiments of our brethren throughout the colonies, with unſpeakable affliction, we find ourſelves obliged to oppoſe that ſyſtem of dominion over us, ariſing

ſhe *actually receives with ſafety* from us, becauſe, by the adoption of *Spaniſh* maxims, ſhe *might with danger extort more?*

It is the duty of every coloniſt to oppoſe ſuch maxims. They threaten ruin to our mother country and to us. We ſhould be guilty of treaſon againſt our ſovereign and the majeſty of the people of *England*, if we did not oppoſe them. *England* muſt be ſaved in *America*. Hereafter, ſhe will *rejoice* that we have *reſiſted*—and *thank* us for having *offended* her. Her wiſdom will in a ſhort time diſcover, the artifices that have been uſed by her worſt enemies to enflame her againſt her dutiful children; that ſhe has ſupported not her own cauſe but the cauſe of an adminiſtration; and will clearly diſtinguiſh, which will moſt conduce to her benefit, ſafety, and glory, *well treated* and *affectionate colonies*, *or millions of ſlaves*, an *unnatural encreaſe of her ſtanding forces*, and an *addition to the influence of the crown*, *defying all calculation.*

* It has been ſuggeſted, "that ſubjects ſometimes err, by not believing that princes mean as well as they do"—But, the inſtances are numerous where princes and their courtiers err, by not believing, that ſubjects mean as well as they do.

fing from counſels pernicious both to our parent and her children—to ſtrive, if it be poſſible, to cloſe the breaches made in our former concord—and ſtop the ſources of future animoſities.—And may GOD Almighty, who delights in the titles of *juſt* and *merciful*, incline the hearts of all parties to that equitable and benevolent temper, which is neceſſary, ſolidly to eſtabliſh peace and harmony, in the place of confuſion and diſſenſion.

THE legiſlative authority claimed by parliament over theſe colonies conſiſts of two heads—firſt, a general power of internal legiſlation; and ſecondly, a power of regulating our trade: both ſhe contends are unlimited. Under the firſt, may be included among other powers, thoſe of forbiding us to * worſhip our Creator in the manner we think moſt acceptable to him—impoſing taxes on us—collecting them by their own officers—enforcing the collection by admiralty courts or courts martial—aboliſhing trials by jury—eſtabliſhing a ſtanding army † among us in time

* See *Canada* bill.

† The army under the command of General GAGE, in the province of *Maſſachuſetts Bay* alone amounts to ſeveral thouſand men—kept there *without conſent of their aſſembly*, and to be *augmented* as the *General* ſhall think proper.

¶ I

time of peace, without consent of our assemblies

'I must own, Sir, I can see but one reason for raising at this present juncture, this additional number of troops, and that is to strengthen the hands of the minister against the next election, by giving him the power of disposing of *commissions* to the *sons*, brothers, nephews, cousins, and friends of such as have interest in boroughs, into some of which, perhaps, troops may be sent to procure the free election of their members, in imitation of the late Czarina sending her troops into *Poland* to secure the free election of a king.

'But still there is one thing more fatal than all I have yet named that *must be* the consequence of so great a body of troops being kept on foot in *England*, and *will be the finishing stroke to all our liberties*. For as the towns in *England* will not be able much longer to contain quarters for them, most of those who keep public houses being near ruined by soldiers billeted on them; so *on pretence of the necessity of it*, barracks will be built for quartering them, which will be as so many fortresses WITH STRONG GARRISONS IN THEM, erected in all parts of *England*, WHICH CAN TEND TO NOTHING, but by degrees to subdue and enslave the kingdom.

'But if ever this scheme should be attempted, it will be incumbent on every *Englishman* to endeavour to prevent it by *all* methods, and as it would be *the last stand* that could be ever made for our liberties, rather than suffer it to be put in execution, IT WOULD BE OUR DUTY TO DRAW OUR SWORDS, AND NEVER PUT THEM UP, till *our liberties were secured*, and the *authors of our intended slavery brought to condign punishment*.—— I hope I shall be forgiven if during the debates I shall take the liberty of speaking again; for *I am determined to fight inch by inch*, every proposition that tends, as I think this does to the enslaving my country."

Lord Viscount GAGE's Speech in 1739. Parl. Deb. book 11th, p. 388. See *Montesq.* on standing armies.

bliet—paying them with our money—seizing our

A minister declared in the House of Commons, that he should "always consider it as a part of the constitution that the military should act under the civil authority." But, by order, the commander in chief of the forces has precedence of a governor in the province under his government. By his majesty's *order*, transmitted in a letter dated the 9th of February 1765, from the secretary of state to the commander in chief, it is declared, "that the orders of the commander in chief, and under him, of the brigadiers-general, commanding in the northern and southern departments, *in all military affairs, shall be* SUPREME, and must be obeyed by the troops, as such, *in all the civil governments* in *America*. That in cases, *where no specific orders* have been given by the commander in chief, or by the brigadier-general commanding in the district, the civil governor in council, and where no council there subsists, the civil governor, *may, for the benefit of his government*, give orders for the marching of troops, the disposition of them, for making and marching detachments, escorts, and such purely military services within his government, *to the commanding officer* of the troops, *who is to give* proper order *for carrying the same into execution*. PROVIDED they are not *contradictory to*, or *incompatible with*, any order he may have received from the commander in chief, or the brigadier general OF THE DISTRICT."

In May 1769 the house of representatives for *Massachusets-Bay*, requested Governor *Bernard* "to give the necessary and effectual orders for the removal of the *forces by sea and land* out of the *port of Boston*, and from the *gate* of the city, DURING THE SESSION OF THE SAID ASSEMBLY;" to which he answered—"Gentlemen, I have NO AUTHORITY over his majesty's *ships in this port* or his *troops within this town*, *nor can I give* any orders for their removal.

May 31, 1769. *Fra. Bernard.*"

Thus, our governors, the captains general and commanders in chief, representing the sovereign, and known

to

our young men * for recruits—changing conſtitutions

to the conſtitution of theſe colonies, are deprived of their legal authority, IN TIME OF PEACE, *by an order*—and a *perpetual dictatorial power* eſtabliſhed over us. To accompliſh this great purpoſe, it was thought proper during the laſt war, to change the mode of granting military commiſſions, and to paſs that to the general in *America under the great ſeal*. It is not known, whether this uncommon formality has been obſerved with regard to the *major generals of the reſpective* " DISTRICTS."

* The *Germans* have been juſtly celebrated in different ages for ſagacity in promoting the arts, and for martial ſpirit; yet how unhappy have they been made in a ſhort period of time, by that ſingle engine of arbitrary power, a *ſtanding army*. Their diſtreſs was wrought up to ſuch a degree, that thouſands, and tens of thouſands, relinquiſhed their native country, and fled to the wilderneſſes of *America*. It was a way of thinking and acting that became them. For *Germans* may truly be called *the Fathers of Engliſhmen*. From * *Germany* came their anceſtors, and the firſt principles of the conſtitution. *Germans* therefore ſeem to be more juſtly entitled than other foreigners to the bleſſings of that conſtitution. To enjoy them, in this free country as it then was, they came here, but now unfortunately find, *arbitrary government*, and a *ſtanding army* purſuing them even into theſe woods. Numbers of them now in theſe provinces, have ſerved in the armies of the ſeveral princes in *Germany*, and know well, that one reaſon with their rulers, for putting ſwords into their hands, was to cut the throats of their own fathers, brothers and relations who ſhould attempt to relieve themſelves from any part of their miſeries. Their former ſovereigns are now compleating, it is ſaid, the cruel tragedy of tyranny. They will not ſuffer thoſe they have made wretched, to ſeek for a more tolerable exiſtence in ſome other part of the globe. It is their DUTY, ſay theſe unfeeling princes, " to be unhappy, and to

* 1 Blackſt. p. 147.

ſtitutions of government *—ſtopping the preſs—declaring any action, even a meeting of the ſmalleſt number, to conſider of peaceable modes to obtain redreſs of grievances † high treaſon—taking coloniſts to *Great Britain* to be tried ‡—exempting "murderers" § of coloniſts from puniſhment, by carrying them to *England*, to anſwer indictments found in the colonies—‖ ſhutting up our ports—prohibiting us from ſlitting ** iron to build out houſes—making †† hats to cover our heads, or clothing to cover the reſt of our bodies, &c. ‡‡

to renounce all hopes of relief." They are prohibited from leaving their country. Thoſe who have already eſcaped into theſe colonies, remember what they and their parents ſuffered in *Germany*. The old tell the ſtories of their oppreſſions to the younger; and however *improbable* it may appear on the other ſide of the *Atlantic*, it is aſſerted by perſons well acquainted with this people, that they have *very little* inclination TO SUFFER THE SAME CRUELTIES AGAIN in *America*.

* Bill for changing the conſtitution of *Maſſachuſets Bay*.

† General *Gage*'s proclamation, dated June 29, 1774.

‡ Reſolves in the Houſe of Lords on 35th Hen. 8. ch. 2.

§ Bill for the adminiſtration of juſtice, &c.

‖ *Boſton* act.

** 23d Geo. II. ch. 29.

†† 5th Geo. II. ch. 22.

‡‡ If *Great-Britain* has a conſtitutional power to prohibit us from ſlitting iron *as ſhe has done*, ſhe has a conſtitutional power, that is, a *right*, to prohibit us from raiſing grain for our food; for the principle that ſupports

one

In our provincial legiſlatures, the beſt judges in all caſes what ſuits us—founded on the

one law, will the other. What a vaſt demand muſt be made on her for this article, and how firmly would her dominion be eſtabliſhed, if we *depended* wholly on her for our daily bread? Her modern writers conſider coloniſts as ſlaves of *Great-Britain* ſhut up in a large workhouſe, conſtantly kept at labour, in procuring ſuch materials as ſhe preſcribes, and wearing ſuch clothes as ſhe ſends.—Should ſhe ever adopt the meaſure abovementioned, and on our complaints of grievances, withhold food from us—what then? why then, on her principle——it would be *right*——TO BE STARVED. To ſay in ſuch *caſe* we ſhould have any other *right*, would be a "*traiterous* and *rebellious* denial of the ſupreme legiſlature of *Great-Britain*," for ſhe "has power *of right* to bind us by ſtatutes IN ALL CASES WHATSOEVER."

Let not any perſon object that the ſuppoſition of ſuch a caſe is the ſuggeſtion of fancy. The *Carthaginians*, thoſe maſters in the ſublime politics of commerce—politics that have produced ſo many dreadful ſcenes upon earth, forbad the *Sardinians* to raiſe corn, in order to keep them in due ſubjection. The *Eaſt Indies*, *St. Vincents*, the proceedings at *Rhode Iſland*, and the *Boſton* act, &c. give riſe to many alarming apprehenſions in *America*. There are few men on this continent would be as much ſurprized at that meaſure, as at ſome late meaſures. The beginning juſtifies any apprehenſions. Power debauches the affections. The improbability of caſes happening, is no anſwer in ſuch important conſiderations. The laudable ſpirit of commerce may be inflamed into rapacity and cruelty in a nation as well as in an individual. We muſt regard the POWER claimed by *Great Britain*, not ſolely her WILL or CONTINGENCIES DEPENDING ON THAT WILL. If ſhe affixes no limits to her *power* why ſhould we affix *any* to its *effects*? "I know (ſays Mr. *Hoadly*) it is next to impoſſible, that any ſuch caſe ſhould happen: But if ſuch things be ſaid, and ſuch caſes, *in effect*, be

put

the immutable and unalienable rights of human nature, the principles of the conſtitution, and charters

put, it is neceſſary to ſpeak, *upon the ſuppoſition of ſuch caſes.*—And methinks it is but a narrow ſpirited proceeding in us to go juſt no farther *in our notions*, than a compliance with *our own preſent condition forceth us*; to exclude from our regard the condition of *all other nations, and all caſes*, but juſt that which hath happened laſt of all in our own."

"That the plan of governing us by withholding *neceſſaries of life* has been conſidered, and in what light colonies are viewed at home, the following extracts will partly ſhew."

"It appears that the original and grand evil attending them was, the ſettlement of *ſo conſiderable a part* in a climate incapable of yielding the commodities wanting in *Britain*.

"Theſe northern colonies, long after *their diſadvantageous* nature was known, were continually increaſed by freſh migrations from *Europe*; which, as I before obſerved, ought totally to have been prevented, and ſuch migrations have been encouraged only to the beneficial colonies.

"Since the late war, *Britain* laid the trade of the colonies under ſome very ſtrict regulations, which certainly cut off many inlets by which they formerly received much *Spaniſh* and *Portugueſe* coin. The *principle* upon which ſuch regulations were formed, of ſecuring to the mother country alone *all matters of commerce*, I have already attempted to prove *juſt* and *neceſſary*.

"When once their ſupernumeraries are become manufacturers, it will require more than *Britiſh* policy to convert them into planters.

"I muſt think this point of ſuch great importance, as to extend probably to the *annihilation of manufactures* in

charters and grants made by the crown at periods, when the power of making them was uni-

our colonies.—To conclude, it is in the propoſed ſettlement on the *Obio* we muſt *firſt* look for hemp and flax; as ſuch great numbers of the old *American* farmers have removed and ſettled there, which may, in thoſe fertile tracts, be cultivated in ſuch abundance, as to enable us to underſell all the world, as well as ſupply our own conſumption. It is on thoſe high, dry, and healthy lands, that vineyards will be cultivated to the beſt advantage, as many of thoſe hills contain quarries of ſtone, and not in the unhealthy ſea-coaſts of our *preſent* colonies. To theſe we ſhould bring the ſettlers from *Europe*, or at leaſt ſuffer none to go *north* of *New-York*; by which means our numbers would increaſe in thoſe parts, where it is our intereſt they ſhould increaſe; and the report of the ſettlers from the new colony on the *Obio* would be a conſtant drain of people from our *unprofitable* northern ones, by which means they would, in future times, as well as the preſent, be prevented from extending their manufactures.

"What I ſhall therefore venture to propoſe is, that the government, *through the means of a few merchants* acquainted with the *American* trade, that can be tolerably depended upon, ſhould eſtabliſh *factors* at *Boſton*, *Philadelphia*, *New-York*, and a few other ports, for the ſale of ſuch cargoes of *Britiſh* manufactures as ſhould be conſigned to them; and to conſiſt of ſuch particularly as were moſt manufactured in the province, with directions immediately and continually to *underſell* all ſuch colony manufactures. By this means the operation of the ſucceeding meaſures, from the number of hands rendered idle, would be ſo much eaſier to be executed.

"The ſhips which carried out ſuch cargoes ſhould be large bulky ones, of eight, nine hundred, and one thouſand tons burden, for the ſake of bringing large quantities of deals, &c. back, at a leſs proportionate expence; and previous to their arrival in *America*, cargoes of theſe ſhould

univerſally acknowledged by the parent ſtate, a power ſince frequently recognized by her.—

ſubject

ſhould be ready for them. The coloniſts ſhould be engaged to work their iron mines, and get the product ready in bars, &c. and vaſt quantities of deals and ſquared timber ready for loading the ſhips: All which, on the certain and immediate proſpect of a ſale, would eaſily be effected; as it is well known they have more than once proved to the legiſlature, that they could ſupply all *Europe* with theſe articles, had they but the *demand*.

"But I laid it down as a rule to proceed upon, that *trade*, *fiſhing*, and *manufacturing*, were put an entire ſtop to among the colonies.

"If the ſugar iſlands contained ten millions of people, AS DESTITUTE OF NECESSARIES as they are at preſent, *Britain* would be as SURE of their allegiance as ſhe is at preſent—provided no power more formidable than herſelf at ſea aroſe for their protection.

"The firſt dependance of our colonies, as well as all their people, is, to change the terms a little, upon corn worked into bread and iron wrought into implements; or, in other words, it is upon *neceſſary* agriculture and *neceſſary* manufactures; for a people who do not poſſeſs theſe, to think of throwing off the yoke of another *who ſupplies them with them*, is an abſurd idea. This is preciſely the caſe with our ſugar iſlands. Let us ſuppoſe the continental colonies to be as happy in the *neceſſary agriculture* as they really are, but to be abſolutely without manufactures, could they throw off their allegiance to *Britain* be their numbers what they would? No, certainly; for that is nothing more than ſuppoſing they ſhould throw off their allegiance to hoes and ſpades, and *coats* and *ſhoes*, which is abſurd to imagine: can any one imagine that a rebellion can be carried on among a people, when the greateſt ſucceſs muſt be attended with the loſs of *half* the *neceſſaries* of life!

"The

subject to the controul of the crown as by law eſtabliſhed, is veſted the *excluſive right of internal legiſlation.*

Such

"The following, among other effects relative to this point, would be the conſequence of the *plan* ſketched out in the preceding ſection.

"The people would depend on *Britain* for thoſe *neceſſaries of life* which reſult from manufactures.

"The cultivation of *ſtaples* would be more profitable to them than any other employment whatever.

"The *ſale* of thoſe ſtaples would depend on *Britain*.

"The people would all be *ſpread* over an immenſe country in planters;---none of them collected in towns *.

"To which circumſtances I ſhall add, in reſpect to *Britain's* further policy,

"That ſhe ſhould abide by the boundaries fixed already to the old colonies, that of the rivers heads; and all further ſettling to be in *new colonies*, wherever they were traced.

"That ſhe ſhould keep the inland navigation of the continent, that is, of all the great lakes and navigable rivers, to herſelf, and not ſuffer any *ſets* of men to navigate them, and thereby communicate from one part of the continent to another.

"That ſhe ſhould never ſuffer any *provincial troops* or *militia*

* "This point, which is of infinite importance, would pretty fully be occaſioned by other parts of the plan. But, to enſure ſo great a point, no new towns ſhould be ſuffered, nor even villages; than which nothing could be eaſier to manage: nor would they be any where neceſſary but by the magazines of naval ſtores for loading ſhips. All poſſible decreaſe of numbers in the cities already in being, ſhould be effected. So ſyſtematically abſurd is it to found towns and cities, as *Britain* has hitherto conſtantly done, in all the colonies ſhe has formed."

SUCH a right vested in parliament, would place us exactly in the same situation, the peo-

ple

militia to be raised, but reserve entirely to herself the defence of the frontiers*.

"That she should throw what obstacles she could, upon all plans of *communication* from colony to colony, or conveniences of speedy removals from place to place.

"That in proportion as any colony declined in staples, and threatened not to be able to produce a sufficiency of them, the inhabitants should receive such encouragement to leave it, as *more* than to drain its natural increase, unless new staples were discovered for it.

"This is *now* the case with those I have distinguished by the title of the northern colonies; insomuch that *Nova-Scotia*, *Canada*, *New-England*, *New-York*, *New-Jersey*, and *Pennsylvania*, would be nearly of as much benefit to this country BURIED IN THE OCEAN as they are at present."

Political Essays.

The conduct of administration corresponds exactly with the sentiments of this modern writer, and with the measures pursued by *Philip* the Second of *Spain* against the *Low-Countries*. The reasons given by one in administration for attacking the colonies, seem to be copied (with some small alterations on account of religion) from the famous advice of the unfeeling duke of *Alva*, that "specie retinendæ dignitatis," cost his master, his glory, his happiness, and his provinces—and sunk his country into distresses, from which she is not yet recovered. "At vero dux Albanus ARMA & ULTIONEM, contendebat, *unicum* læsæ auctoritati principis remedium. Quippe ceteris artibus ac diuturna facilitate nihil aliud effectum, quam ut regi obedientia, rebellibus timor adimeretur. Postulasse *principio* Belgas, ut Hispanus è provincia miles excederet: id scilicet unum deesse constantes ad quietem populorum. Num propterea, *impetrata externorum missione* quievisse? An potius & confidentius efflagitasse, ut---clavo deturbaretur GRANVELLANUS.

* "Specie tuendi finium, jugum liberis provinciis meditatur."

STRADA, *lib.* 2.

ple of *Great Britain* would have been reduced to, had *James* the First and his family succeeded

VELLANUS. At *unius* forte *naufragio* complacatos fuiſſe ventos.---Quin immo ut *licentia* creſcit facilius---homines à noſtra facilitate ſecuri---*libellis deridiculis, flagitioſis conſpirationibus*---improbis palam carminibus---minis---*precibus armatis*---extorſerent quod averent---obſtinatis *inverecunde* legationibus Hiſpaniam FATIGARENT---Hic quoque viſum clementiæ principis aliqua indigna poſcentibus indulgere. Enim vero quid ex illa indulgentia relatum, niſi ut votorum ubique compotes, non parendo: ſubditos ſeſe obliviſcerentur, obſequium dediſcerent, atque exuta principis reverentia, communicata provinciarum defectione, tanquam culpæ ſocietate tutiores, humana omnia contrectatæ ſemel libertati poſt haberent. Nunc vero non *unius civitatis*, ſed *provinciarum conſenſu* peccatum eſſe in regem. Nec quia rebelles in preſentia conquieſcant, minus ferociæ animis ineſſe, reſumpturos utique vires, ubi *metum ultionis* abjecerint. Sic *ille* PRONUS AD ASPERIORA, differebat." *Strada* de bello *Belgico*, lib. 6.

It is evident, that the *Britiſh* miniſters have diligently ſtudied *Strada* and the other authors who have tranſmitted to poſterity the pleaſing and inſtructive annals of *Philippic* policy, as every meaſure they have taken, is founded on a precedent ſet by that celebrated ſchool of humanity.

Alva is the favourite maſter---on his conduct they keep their eyes ſteadily and reverently fixed, and it may truly be ſaid---they follow him with no unequal ſteps. Great, good, and wiſe men! whom ſome future *Puffendorf* or *Temple* will duely celebrate.

"In 1564, GRANVILLE was removed from the council, to appeaſe the people. Their joy was ſhort lived; for as the *ſame* meaſures were purſued, it ſoon began to be ſaid publicly, that though his *body* was removed from, *his ſpirit* ſtill influenced the council. Upon application for a relaxation of the edicts, it was ſaid, that *moderation had only made matters worſe*, and the obſervation of them was again enjoined upon *more ſevere penalties* than before.

ceeded in their ſcheme of arbitrary power. Changing the word *Stuarts* for *parliament*, and

 Britons

" At length an ASSOCIATION was entered into, for mutually defending each other. This being ſigned by above 400 perſons of quality, who all proteſted, that they meant nothing but the honour of God, the glory of the king, and the good of their country, they met and PETITIONED, that the *proclamation might be revoked*: but the king would conſent to no mitigation. Good advice was given to him. But the duke *D'Alva*'s violent counſel, WHO PROPOSED THE ENTIRE ABOLISHMENT OF THE LIBERTIES OF THE PROVINCES*, was moſt pleaſing and followed. The cruel duke was ſent into the *Low Countries* with a powerful army. The counts *D'Egmont* and *Horn* were immediately ſeized, on a pretence that they had, underhand, ſpirited up the people's *diſaffection*. They were afterwards executed. All who had ſigned the ASSOCIATION or PETITION were declared guilty of † HIGH TREASON, and anſwerable for what had happened. A council called from its cruel proceedings, ‡ THE COUNCIL OF BLOOD, was erected for trying the accuſed, *from which there was no appeal*. (NOTE WELL) *Alva* himſelf tried the accuſed *in their own country*, where their *friends* and *witneſſes* might attend them,—where the pains of death itſelf might be mitigated, by ſeeing with their dying eyes, that they expired beloved and lamented. Here, the diſciples exceed their tutor. This is too great a conſolation to be indulged to a coloniſt. He muſt be carried 3000 miles acroſs the ocean—that he may not only die, but be inſulted in his laſt moments, with the mockery of a trial where the cleareſt innocence ſtands no chance of acquittal, and with the formality of a ſentence founded on a ſtatute paſt before the colonies exiſted. On the approach of the army, the prince of *Orange* and other lords fled; and being ſummoned to appear before the council, in default

* "LAY THEM AT MY FEET."

† See General *Gage*'s proclamation.

‡ Reſolutions in parliament for trying coloniſts in *England*. *Rhode Iſland* Court. Late acts for *Maſſachuſetts-Bay*.

Britons for *Americans*, the arguments of the illuſtrious patriots of thoſe times, to whoſe virtues

fault thereof were condemned, and their eſtates confiſcated, *Alva* treated all, the *innocent* and *guilty*, with ſuch rigour, that it gave riſe to the following ſaying of a *Spaniſh* officer —"*Hæretici* fraxerunt templa; *boni* nihil faxerunt contra: ERGO *omnes* debent *patibulari*."

Puffendorf's introduction—Art. "Spain" and "the United Provinces."

Sir *William Temple*'s account of the diſturbances in the *Low Countries* agrees exactly with the foregoing extracted out of *Puffendorf*, by which it will appear with what a ſurprizing exactneſs of reſemblance the affairs of the colonies have been carried on by adminiſtration.

"The war with *France* being concluded, it was reſolved to keep up the troops in theſe provinces, and that the ſtates ſhould ſupport them, which by a long courſe of war was grown cuſtomary." When *Philip* would have put *Spaniſh* garriſons into ſome of their towns; and for the ſake of their admitting them quietly, gave the command to the Prince of *Orange* and Count *Egmont*: they told him plainly, "That all the brave ſtands they had made againſt the power of *France*, availed them but little, if they muſt at laſt be enſlaved by another foreign power. *Puffendorf*. "The hatred of the people, the inſolence of the troops, with the charge of their ſupport, made them looked upon by the inhabitants in general, as the *inſtruments of their oppreſſion and ſlavery, and not of their defence, when a general peace had left them no enemies*: And therefore the ſtates began here their complaints, with a general conſent and paſſion of all the nobles, as well as towns and country. And upon the delays that were contrived or fell in, the ſtates firſt refuſed to raiſe any more monies either for the *Spaniards* pay, or their own ſtanding troops; and the people ran into ſo great *deſpair*, that in *Zealand* they abſolutely gave over the working at their dikes, SUFFERING THE SEA TO GAIN EVERY TIDE UPON THE COUNTRY, and reſolving, as they ſaid, rather to be devoured by that element,

virtues their deſcendants owe every bleſſing they now enjoy, apply with inexpreſſible force and

element, than by the *Spaniſh* ſoldiers; ſo that at laſt the king conſented to their removal. Another grievance was the appointment of *new judges**, and thoſe abſolutely depending on the king, &c."

"GRANVILLE ſtrained up to the higheſt his maſter's authority and the execution of his commands, while the provinces were reſolute to protect the liberties of their country, againſt the admiſſion of this NEW AND ARBITRARY JUDICATURE, UNKNOWN TO ALL ANTIENT LAWS AND CUSTOMS OF THEIR COUNTRY. The king at laſt conſented to GRANVILLE's receſs. Then all noiſe of *diſcontent* and *tumult* was *appeaſed*. But quickly after the *ſame councils* were reſumed. The *diſturbances* then grew *greater than before*. But by the prudence and moderation of the ducheſs of *Parma*, the governeſs, the whole eſtate of the provinces was reſtored to its former peace. This ducheſs, and the duke of *Feria*, one of the chief miniſters in *Spain*, thought and adviſed, that the THEN PRESENT PEACE OF THE PROVINCES OUGHT NOT TO BE INVADED BY NEW OCCASIONS, nor the royal authority leſſened, by the king being made a party in a war upon his ſubjects. But the king was immoveable; he diſpatched *Alva* into the Low Country at the head of *ten thouſand* veteran *Spaniſh* and *Italian* troops, under the command of the *beſt officers*, which the wars of *Charles* the Fifth, or *Philip* the Second had bred up in *Europe*; which, with *two thouſand* more in the provinces, under the command of ſo old and renowned a general as the duke of *Alva*, made up a force, which nothing in the *Low Countries* could look in the face with other eyes, than of aſtoniſhment, ſubmiſſion, or deſpair. This power was for the *aſſiſtance of the governeſs*, the *execution of the laws*, the *ſuppreſſing* and *puniſhing* all who had been *authors* or *fomentors* of the *late diſturbances* †. On his arrival

* Admiralty courts. *Rhode-Iſland* court, for enforcing the ſtatute of 35 Henry 8. Act for regulating the government of *Maſſachuſets-Bay*. Act for adminiſtration of juſtice, &c.

† See ſpeeches in parliament, and preambles to the late acts.

and appoſiteneſs, in maintenance of our cauſe, and in refutation of the pretenſions ſet up by their

arrival the governeſs having obtained leave of the king, retired out of the province. The duke of *Alva* was inveſted in the government, *with powers never before given to any governor*. A council, called THE COUNCIL OF BLOOD*, was erected for the trial of all crimes committed *againſt the king's authority*. The towns ſtomached the BREACH OF THEIR CHARTERS, the people OF THEIR LIBERTIES, the knights of the golden fleece the CHARTERS OF THEIR ORDER, by theſe NEW AND ODIOUS COURTS OF JUDICATURE; all complain of the DISUSE OF THE STATES†, of the INTRODUCTION OF ARMIES, but all in vain. The king was conſtant to what he had determined. *Alva* was in his nature *cruel* and *inexorable*. The new army was fierce and brave, and *deſirous of nothing ſo much as a rebellion in the country*. The people were enraged, but awed and unheaded. All was SEIZURE and PROCESS;—CONFISCATION and IMPRISONMENT;—BLOOD and HORROR—INSOLENCE and DEJECTION;—PUNISHMENTS executed, and meditated REVENGE. The ſmaller branches were lopt off apace; the great ones were longer a hewing down. Counts *Egmont* and *Horn* laſted ſeveral months; but at length, in ſpite *of all their ſervices* to *Charles* the Fifth and to *Philip*, as well as of their new merits in quieting of the provinces, and of ſo great ſupplications and interceſſions as were made in their favour, both in *Spain* and *Flanders*, they were publicly beheaded at *Bruſſels*, which ſeemed to break all patience in the people; and by their end to give thoſe commotions a beginning, which coſt *Europe* ſo much blood, and *Spain* a great part of the Low Country provinces. The war begun, *Alva* had *at firſt* great ſucceſs. Moved with no rumors, terrified with no threats from *a broken* and *unarmed* people, and thinking no *meaſures* or *forms* were any more neceſſary to be obſerved in the provinces; he pretends *greater ſums* are neceſſary for the *pay* and *reward* of his *victorious* troops than were ANNUALLY GRANTED UPON THE KING'S REQUEST BY

* See note in page 75.

† Frequent Diſſolution of aſſemblies—and their total uſeleſſneſs, if parliament taxes us.

their too forgetful posterity, over their unhappy colonists. Confiding in the undeniable truth

BY THE STATES OF THE PROVINCES: (*Note*. Here our ministers have again improved upon *Philip*'s; for they have taxed us, without making requests.) * And therefore demands a general tax of the hundredth part of every man's estate, to be raised *at once*: and *for the future*, the twentieth of all immoveable, and the eighteenth of all that was sold. The states with much reluctancy consent to the first, as a thing that ended at once. They PETITION the king, BUT WITHOUT REDRESS; draw out the year in contests, sometimes stomachful, sometimes humble with the governor: till the duke, impatient of delay, causes the *edict*, WITHOUT CONSENT OF THE STATES, to be *published*. The people REFUSED TO PAY; the SOLDIERS begin to LEVY BY FORCE; the TOWNSMEN ALL SHUT UP THEIR SHOPS; the PEOPLE IN THE COUNTRY FORBEAR THE MARKET; so as not so much as *bread* and *meat* is to be bought in the town. The duke is *enraged*; calls the *soldiers to arms*; and commands several of the inhabitants, WHO REFUSED THE PAYMENTS, to be hanged that very night UPON THEIR SIGN POSTS; which moves not the obstinacy of the people. AND NOW THE OFFICERS AND THE GUARDS ARE READY TO BEGIN THE EXECUTIONS, when news comes to town of the the taking of the *Briel*, by the *Gueses* †, and of the expectation

* Another advantage the *British* ministers have over the *Spanish* in depth of policy, is very remarkable. *Spain* was a great empire. The Low Countries a mere speck, compared with it. *Spain* was not a maritime state that depended upon them for the supply of her revenue. Had they been sunk in the sea, she would scarcely have felt the loss. Her prospect of success was almost certain. *France*, her then inveterate enemy, exhausted by a civil war and divided into two powerful parties. Every circumstance is directly the reverse to *Great-Britain* in her present contest with the colonies. "Siquidem verissimum est, *ignem* tactis injicere, et injecto spatium modumque statuere, non esse in ejusdem manu." STRADA, *lib.* 7.

† *Beggars*—They were called so in contempt, when they *petitioned*. The people thereupon assumed that name, perhaps to keep up the memory of an insult *occasion'd by their loyalty*.

The whole country of the seven *United Provinces* is not as large as one half of *Pennsylvania*; and when they began their contest with *Philip* the Second for their liberty, contained about as many inhabitants as are now in the province of *Massachusetts-Bay*. *Philip*'s empire then comprehended in *Europe*

truth of this single position, that, "to live by one

pectation that had given of a sudden revolt in the province of *Holland*.

"This unexpected blow STRUCK the duke of *Alva*, and *foreseeing the consequences* of it, because he knew the stubble was dry, and now he found the fire was fallen in, he thought it an ill time to make an end of the tragedy in *Brabant*, whilst a new scene was opened in *Holland*; and so giving over for the present his TAXES and EXECUTIONS, applies his thoughts to the suppression of this new enemy that broke in upon him from the sea. And *now* began that great commotion in the *Low Countries*, which *never ended* but in the loss of those provinces, when the death of the royal government gave life to a new commonwealth."

Observat. upon the UNITED PROVINCES of the *Netherlands* by Sir *William Temple*.

Philip and his junto of cabinet ministers thought themselves no doubt very wise, and politic as so many *Machiavels*. But what says, and will say mankind as long as the memory of those events is preserved? That their counsels were despicable, their motives detestable, and their minds like those described by the bishop of *Lerida*, that exactly resembled the horns of the cows in his country---LITTLE, "HARD, and CROOKED."

and

Europe, all *Spain* and *Portugal*, the two *Sicilies*, and such provinces of the *Low Countries* as adhered to him,—many islands of importance in the *Mediterranean*—the *Milanese* and many other very valuable territories in *Italy* and elsewhere.—In *Africa* and *Asia*, all the dominions belonging to *Spain* and *Portugal*—in *America* the immense countries subject to those two kingdoms, with all their treasures and yet unexhausted mines, and the *Spanish West-Indies*. His armies were numerous and veteran, excellently officered, and commanded by the most renowned generals. So great was their force, that during the wars in the *Low Countries*, his commander in chief, the prince of *Parma*, marched twice into *France*, and obliged that great general and glorious king, *Henry* the fourth, to raise at one time the siege of *Paris* and at another, that of *Rouen*. So considerable was the naval power of *Philip*, that in the midst of the same wars, he fitted out his dreadful *armada* to invade *England*. Yet seven little provinces, or *countries*, as we should call them, inspired by one generous resolution—"to die free, rather than to live slaves," not only baffled, but brought down into the dust, that enormous power, that had contended for universal empire, and for half a century; was the terror of the world. Such an amazing change indeed took place, that those provinces afterwards actually PROTECTED *Spain* against the power of *France*.

one man's * will became the cauſe of all men's miſery," they generouſly ſuffered.—And the worthy biſhop before mentioned, who, for ſtrenuouſly aſſerting the principles of the Revolution, received the unuſual honour of being recommended by a HOUSE OF COMMONS to the ſovereign for preferment, has juſtly obſerved, that "*miſery* is the *ſame* whether it comes from the hands of MANY or of ONE."

"IT could not appear *tolerable* to him (meaning Mr. *Hooker*, author of the Eccleſiaſtical Policy) to lodge in the governors of *any ſociety* an UNLIMITED AUTHORITY, to annul and alter the conſtitution of the government, as they ſhould ſee fit, and to leave to the *governed* the privilege *only* of ABSOLUTE SUBJECTION in *all ſuch alterations* †; or to uſe the parliamentary phraſe, "*in all caſes whatſoever*."

[FROM what ſource can *Great-Britain* derive a ſingle reaſon to ſupport her claim to ſuch an enormous power? That it is conſiſtent with the laws of *nature*, no reaſonable man will pretend. That it contradicts the precepts of

L *Chriſtianity*,

* *Hooker*. "For a man to be *tenant at will* of his liberty, I can never agree to it. It is a *tenure*, not to be found in all *Littleton*." Speech of Sir *Edward Coke*.

"*Etiam ſi dominus non ſit moleſtus, tamen miſerrimum eſt*, poſſe *ſi* velit." CICERO.

——————"The *free*
Know no *gentle* tyranny." ROWE.

† HOADLY's diſc. on government.

Chriſtianity, is evident. For ſhe ſtrives to force upon us, terms, which ſhe would judge to be intolerably ſevere and cruel, if impoſed on herſelf. "*Virtual repreſentation*" is too ridiculous to be regarded. *The neceſſity of a ſupreme ſovereign legiſlature* internally ſuperintending the whole empire, is a notion equally unjuſt and dangerous. "The *pretence* (ſays Mr. Juſtice *Blackſtone*, ſpeaking of *James* the Firſt's reign) for which *arbitrary* meaſures was no other than the TYRANT'S PLEA of the NECESSITY OF UNLIMITED POWERS, works of *evident utility* to the * public, the ſupreme reaſon

* With ſuch ſmooth words may the moſt dreadful deſigns be gloſſed over. "There are ſome men who call evil, good, and bitter, ſweet.—*Juſtice*, is now called *popularity* and *faction*." Parl. hiſt. 8. 193.

"A man ſhall not unprofitably ſpend his contemplation, that upon this occaſion conſiders the method of GOD'S juſtice (a method terribly remarkable in many paſſages, and upon many perſons, which we ſhall be compelled to remember in this diſcourſe) that the ſame principles, and the ſame application of thoſe principles, ſhould be uſed to the wreſting all ſovereign power from the crown, which the crown had a little before made uſe of for the extending its authority and power, *beyond its bounds, to the prejudice of the juſt rights of the ſubject*. A SUPPOSED NECESSITY was then thought GROUND ENOUGH to create a power, and A BARE AVERMENT OF THAT NECESSITY to beget a practice *to impoſe what tax* THEY THOUGHT CONVENIENT upon the ſubject, by writs of *ſhip-money* never before known; and a ſuppoſed neceſſity now, and a bare averment of that neceſſity, is as confidently, and more fatally, concluded a good ground to exclude the crown from the uſe of any power, by an ordi-

nance

reaſon above all reaſons, which is the ſalvation of the king's lands and people." This was not the doctrine of *James* only. His ſon unhappily inherited it from him. On this flimſy foundation was built the claim of *ſhip money*, &c. Nor were there wanting men, who could argue, from the courtly text, that parliaments were too ſtupid or too factious to grant money to the crown, when it was their intereſt and their duty to do ſo. This argument, however, was *fully* refuted, and ſlept above a century in proper contempt, till the poſterity of thoſe who had overthrown it, thought fit to revive the exploded abſurdity. Trifling as the pretence was, yet it might much more properly be urged in favour of a *ſingle perſon*, than of a *multitude*. The counſels of a monarch may be more ſecret. His meaſures more quick. In paſſing an act of parliament for all the colonies, as many men are conſulted, if not more, than need be conſulted, in obtaining the aſſent of every legiſlature on the continent. If it is a good argument for parliaments, it is a better againſt them. It therefore proves nothing but its own futility. The *ſuppoſed advantages* of ſuch a power could never be attained but by the deſtruction

nance never before heard of, and the ſame maxim of "ſalus populi ſuprema lex," which had been uſed to the infringing the liberty of the one, made uſe of for deſtroying the rights of the other."

1 Lord *Clarendon*'s hiſt. b. 5. p. 54.

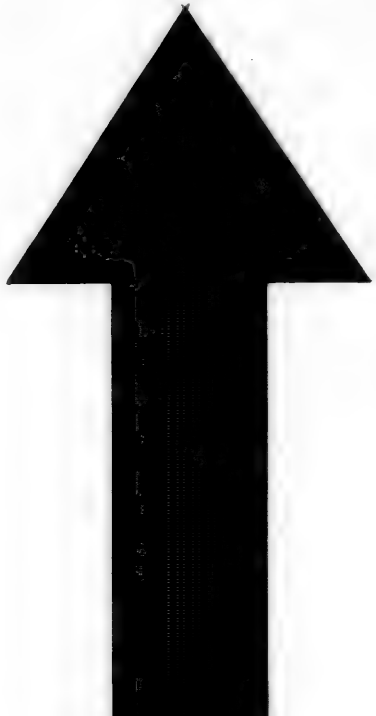
of * *real benefits*, evidenced by facts to exist without it. The *Swiss Cantons*, and the *United Provinces*, are combinations of independent states. The voice of each must be given. The instance of these colonies may be added: for stating the case, that no act of internal legislation over them had ever been pass'd by *Great-Britain*, her wisest statesman would be perplexed to shew, that she or the colonies would have been less flourishing than they now are. What benefits such a power may produce hereafter, time will discover. But the *colonies are not dependent on Great-Britain*, it is said, if she has not a supreme unlimited legislature over them. "I would ask these *loyal* subjects of the king (says the author of a celebrated invective against us) † what king it is, they *profess* themselves to be loyal subjects of? It cannot be his present most gracious majesty, *George* the Third, king of *Great-Britain*, for his

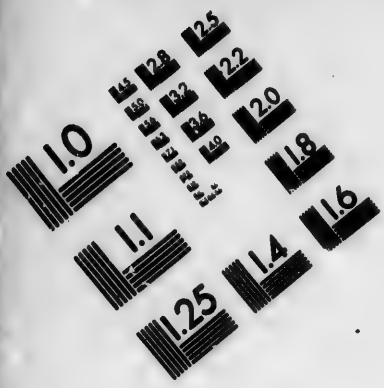
* Thus the patriots of *Charles*'s days argued---"It is not, that *ship-money* hath been levied against us, but it is, that thereby ship-money is *claimed*, which is the gift and EARNEST-PENNY OF ALL WE HAVE: it is not, that our persons have been imprisoned, for the payment of ship-money, but that our PERSONS and LIVES are, upon the *same ground of law*, delivered up to *will and pleasure*. It is, that our BIRTHRIGHT is destroyed, and that there hath been an endeavour to reduce us to a *lower state than villainage*. The lord might tax his *villain de haut et de basse*, might imprison him, but his LIFE was *his own*; THE LAW SECURED HIM THAT." Lord *Clarendon*.

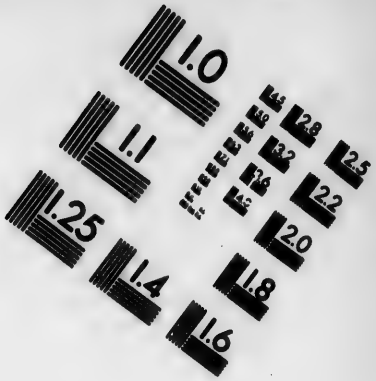
† See note on these words "Therefore a power of regulating our trade, involves not in it the idea of a supreme legislature over us." Page 120.

his title is founded on *an act of parliament*, and they will not ſurely acknowledge that parliament can give them a king, which is of all *others*, the higheſt act of ſovereignty, when they deny it to have power to tax or bind them in any other caſe; and I do not *recollect* that there [illegible] any act of aſſembly, in any of the c[illegible]ies for ſettling the crown upon ki[illegible]*lliam* or the illuſtrious houſe of *Hanover* *." "Curious reaſoning

* "The *controverſy* between *Great-Britain* and her colonies reviewed." The learned gentleman who wrote this piece, has thought proper to quit his argument, ſtep out of his way, perſonally abuſe, and ſeverely attack the writer of the "Farmer's Letters." His principal objections are the following, and the anſwers here given may perhaps be ſufficient to ſhew with what force his objections are generally urged. 1ſt, He ſays, "the writer of the letters tells us, that the drawbacks which are allowed on ſome articles upon their exportation from *England* amount to more money than all the duties together which are laid upon them on their arrival in the colonies will produce. I believe it is the firſt time that the colonies of any ſtate have complained of the injuſtice of the mother country in laying taxes upon them, which were not *ſufficiently heavy*, nor was it ever before diſcovered that the proper means to redreſs the grievances of any people, were to *increaſe their taxes*." Page 16. *Anſwer*. The truth of the aſſertion in the letters is not denied. It is aſſumed, by the author of the "controverſy," as the foundation of his argument. If, then, parliament would have raiſed *more* money, "*by ſtopping* the drawbacks, than by laying the duties to be paid *in* the colonies," *why* were they laid? From reſpect for parliament, it muſt be ſuppoſed, they were laid for *ſome* purpoſe. It was not for the ſake of the money. For what then? To eſtabliſh a PRECEDENT for *taxing* the colonies, ſays the writer of the letters. The author of the con-







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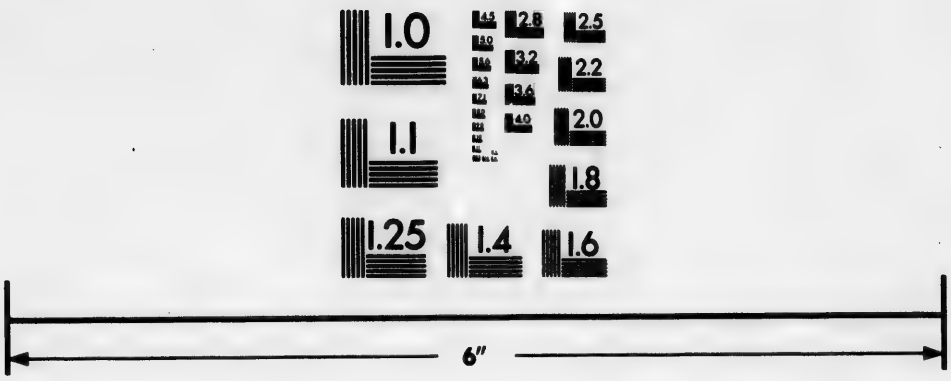

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reasoning this." * It is to be wished the gentleman had "*recollected*" that without any such

controversy does not deny it; but enters into a dissertation upon the *more* and the *less*, which is not the point in question. 2dly. The writer of the letters says, that, an *act of parliament* commanding us to do a certain thing, if it has any validity, is a *tax* upon us, for the *expence* * that accrues in complying with it." In reply to this the author of "the controversy" enumerates many instances of sovereignty *subjecting the colonies to expence*, which he supposes may be legally exercised WITHIN the colonies "BY ACT OF PARLIAMENT." Pages 23, 24. *Answer.* The propriety of this supposition is denied, and remains to be proved. "Absurdities and contradictions" are plentifully attributed to the writer of the letters, because he will not acknowledge, that the power of parliament "to regulate trade, and preserve the connection of the whole empire in due order," involves in it a power to "*tax* the colonies," or "to put them to *any expence*," parliament *shall please*. A person of such sagacity, as the author of the controversy, might plainly have perceived, if his resentment had not prejudiced his candour, that the writer of the letters was unwilling to give up any point, which he *then* thought essential to the freedom and welfare of his country, and at the same time was † unwilling to propose

* Id. p. 17.

* This sentence related to the dissolution of the assembly of *New-York*, for not complying with the act of parliament for not supplying the troops. Last session of parliament an act was passed for the more *commodious* quartering of the troops in *America*. It is not yet come over; but deserves the attention of the colonists, even if it has not the remarkable features, that distinguish the productions of the last session.

† If any person shall imagine that he discovers, in these letters, the least dislike of the dependence of these colonies on *Great-Britain*, I beg that such person will not form any judgement on *particular expressions*, but will consider the *tenor of all the letters taken together*. In that case, I flatter myself, that every unprejudiced reader will be *convinced*, that the true interests of *Great-Britain* are as dear to me, as they ought to be to every good subject.

"If I am an *enthusiast* in any thing, it is in my zeal for the *perpetual dependence* of these colonies on their mother country.—A dependence founded on *mutual benefits*, the continuance of which can be secured only by *mutual affections*

such "act of assembly" none of the colonists ever rebelled. What *act of parliament* is here

propose any new subject of dispute. Justly has the author of the controversy observed—that "it would be endless to trace this doctrine of TAXES THROUGH ALL the

affections. Therefore it is, that with extreme apprehension I view the smallest seeds of discontent, which are unwarily scattered abroad. *Fifty* or *sixty* years will make astonishing alterations in these colonies; and this consideration should render it the business of *Great-Britain* more and more to cultivate our good disposition towards her: But the misfortune is, that those *great men*, who are wrestling for power at home, think themselves very slightly interested in the prosperity of their country *fifty* or *sixty* years hence, but are deeply concerned in blowing up a popular clamour for supposed *immediate advantages*.

"For my part, I regard *Great-Britain* as a bulwark, happily fixed between these colonies and the powerful nations of *Europe*. That kingdom remaining safe, we, under its protection, enjoying peace, may diffuse the blessings of religion, science, and liberty, through remote wildernesses. It is therefore incontestably our *duty*, and our *interest*, to support the strength of *Great-Britain*. When confiding in that strength, she begins to forget from whence it arose, it will be an easy thing to shew the source. She may readily be reminded of the loud alarm spread among her merchants and tradesmen, by the universal association of these colonies, at the time of the *stamp-act*, not to import any of her MANUFACTURES.

"In the year 1718, the *Russians* and *Swedes* entered into an agreement not to suffer *Great-Britain* to export any NAVAL STORES from their dominions but in *Russian* or *Swedish* ships, and at their own prices. *Great-Britain* was distressed. *Pitch* and *tar* rose to *three pounds* a barrel. At length she thought of getting these articles from the colonies: and the attempt succeeding, they fell down to *fifteen shillings*. In the year 1756, *Great-Britain* was threatened with an invasion. An easterly wind blowing for six weeks, she could not MAN her fleet, and the whole nation was thrown into the utmost consternation. The wind changed. The *American* ships arrived. The fleet sailed in ten or fifteen days. There are some other reflections on this subject, worthy of the most deliberate attention of the *British* parliament; but they are of SUCH A NATURE, that I do not chuse to mention them publickly. I thought it my duty, in the year 1765, while the *stamp-act* was in suspence, to write my sentiments to a gentleman of great influence at home, who afterwards distinguished himself, by espousing our cause, in the debates concerning the repeal of that act." FARMER's LETTER, xii. page 100.

If the author of "the controversy" had seen the letter above referred to, he would have found, that, the difference between the PREROGATIVE in *Great-Britain* and in *America*, and the exercise of INTERNAL LEGISLATION by parliament over the colonies, with some other points therein mentioned, were represented in the strongest terms the writer of the letters could use, as unjust, and certainly tending in a few years to produce the deepest discontents. The time is at length come, when silence in *America* on these subjects would be stupid or criminal.

have meant? Surely not the 11th of *Henry* the Seventh, chapter the 1st, in favour of a king *de*

THE CONSEQUENCES." Page 23. 3dly. The writer of the letters says, "we are as much dependent on *Great-Britain*, as a perfectly free people can be on another." On this the author of the controversy kindly observes, that —"it is a pity the learned editor (the *English* editor, it is supposed) has not given the public a dissertation on that most ingenious and instructive passage." Page 25. *Answer*. *American* understandings discover no inconsistency in the idea of "a state being dependent, and yet perfectly free," and their temper is so moderate that they would be content with that degree of freedom, which is compatible with a dependance. If the proposition puzzles *British* understandings, it is presumed to be, because *Britons* will not give themselves the trouble to think of *any* dependance, but of *such*, as is destructive of *all* freedom; though they themselves are dependent in some measure on others. 4thly. The writer of the letters says "if money be raised upon us by *others* without our consent, for our defence, those who are the judges in levying it, must also be the judges in applying it. [OF CONSEQUENCE, the money, *said* to be taken from us for our defence, *may be employed*, to our *injury*. We may be * chained in by a line of fortifications—obliged to pay for the building and maintaining them—and be told that they are for our defence] With what

* The *probability* of this measure taking place, is confirmed! CANADA bill, a political device so extraordinary, as to excite surprise even in those colonists who live in the year 1774. By this bill, it is said, the *legislative* power is lodged in the governor and a few men, not less than 17 nor more than 23, appointed and removeable by the crown; and the government becomes wholly military.—*Trials by jury* are abolished, though multitudes of *English* subjects settled there on the encouragement given by the king's proclamation in 1763.—The *French* laws are *restored*, and ALL THE COUNTRY ON THE BACK OF THESE COLONIES is added to *Canada*, and PUT UNDER THE SAME MILITARY GOVERNMENT. This is indeed to be "*chained in*." Nothing is wanting to complete the plan, but our money, to defray the expence of erecting *strong holds* among our *woods* and *mountains*, and to bribe our *Indians*; and then the expression of "*beating our swords into ploughshares*" will be reversed in an extraordinary manner; for "our plough-shares" will furnish the very "swords" that are to cut our own throats.

de facto. Probably the 12th and 13th of *William* the 3d, chapter the 2d, "for the further

"ther

what face can we diſpute the fact after having granted that thoſe who *apply* the money, had a right to *levy it*? For ſurely it is much eaſier for their wiſdom to underſtand how to apply it in the beſt manner than how to levy it in the beſt manner. Beſides the right of levying is of infinitely more conſequence than *that of applying*. The people of *England*, who would burſt out into fury if the crown ſhould attempt to *levy* money by its own authority, have always aſſigned to the crown the *application* of money."

From the words relating to "application" the author of "the controverſy" deduces a "proof," that the writer of the letters is very deficient in "his knowledge of the conſtitution" * &c. *Anſwer*. Is this treatment generous? In ſuch queſtions ought the attack to be turned from the *cauſe* to the *man*? The writer of the letters pretends not to be diſtinguiſhed, as a "critic on government" nor for "juſtneſs or elegance of compoſition †." Surely, even the author of "the controverſy" muſt now be convinced of his averſion to writing, as that performance, with all "the juſtneſs and elegance of its compoſition, knowledge of the ſubject handled, and conſtitutional learning diſplayed in it," and employed to pull to pieces the reputation of the writer of the letters, has not rouzed him during ſo many years ſince its publication, to make a ſingle effort in vindication of his character. Was it imagined, that every objection was juſt, becauſe not replied to? Many reaſons, beſides a fear of encountering objections, may prevent an anſwer. In truth, he cannot be called a *volunteer* author.—He *never* DID, and *never* DARED to write, but *when* the honour or intereſt of his country was aſſaulted—when *duty* compelled every one to contribute what aſſiſtance he could in her defence—and when he hoped, the cauſe would draw ſome kind of a veil over his defects. He expected, he might eſcape as the *Spartan* youth did, with ſome ſlight cenſure for engaging

* Page 25. † Pages 22 and 25.

"ther limitation of the crown &c." is intended. And, is it imagined that the words "dominions and territories thereunto belonging"

ging *improperly armed*, but that his *motive* would excuſe him from a ſevere one. How well founded the preſent reproach is, will now be conſidered. One would imagine, that a man of common ſenſe, on reading the foregoing extract from the letters, would underſtand the writer plainly to mean by "*levying*," the power of "*taxing*" —and by "*applying*," the power of "*employing*" the money raiſed by taxing; or in other terms, the *actual expenditure* of it. This meaning is evident---the concluſion being *expreſs*, that "if *others* may be judges in *applying* money, OF CONSEQUENCE it *may be employed* to our injury"---and then follow ſome *inſtances*, in which it "may be *ſo* employed." All this is very clear. How then does the very ingenious gentleman open his way to the writer of the letters to give him this violent blow? By a dexterity worthy of imitation---*if juſtifiable*. He *leaves out* of his quotation, *all the words* incloſed within the laſt crotchet, beginning at the words "OF CONSEQUENCE" and ending at the words "our defence," *that ſhewed* beyond a poſſibility of doubt *in what ſenſe* the word "*applying*" was uſed---*takes no notice* of the omiſſion---impoſes *another* ſenſe on the word---and then inſults, may it be ſaid, over the ſuppoſed miſtake of ſaying, "that the people of *England* have always aſſigned to the crown the *application* of money."

What ſenſe *he* or *others* may aſſign to the word "application" is not the point: but whether the word, *taken in that ſenſe* which the writer of the letters *expreſsly* annexed to it, is uſed *with propriety* by him, or whether it is uſed *in ſuch a manner*, as to "prove he is very deficient in his knowledge of the conſtitution?" By *that* word, as he defines it, poſitively as language can declare any meaning, he intends, *the actual expenditure and* "*employment*" of money.—And is the reader to be tricked out of *that definition*, and *another ſenſe* ſhuffled in, merely to impeach a man's character by ſlight of pen?

Has

ing" in that ſtatute, form his majeſty's title to the ſovereignty of theſe colonies? The

HAS not the conſtitution "aſſigned to the crown the *actual expenditure and employment* of money?" Is not this power part of the *executive*? Does not Mr. Juſtice *Blackſtone* mention this power to ſhew the vaſt influence of the crown?—He particularly takes notice of it with reſpect to the army—in theſe expreſſions—"*paid* indeed ultimately by the people, but *immediately* by the crown; raiſed by the crown; officered by the crown; commanded by the crown." *

Is not the word "application" uſed here too, not only properly, *as defined*, but properly, *in a conſtitutional ſenſe*?

True it is, that the word is ſometimes uſed as ſynonimous with *appropriation*, though this latter ſeems to be the fitteſt word to mean the *deſignation* of money to particular purpoſes in acts of parliament. Could it be poſſible, that the author of "the controverſy" ſhould imagine, the writer of the letters could be ignorant of ſuch deſignation or appropriation of money by parliament, when one can ſcarcely open a book of ſtatutes, without obſerving them? Parliament may accommodate grants of money to public neceſſities—and may call officers of the crown to account for money, but theſe powers no more prove the *actual expenditure and employment* of money to belong to parliament, than the power of calling officers of the crown to account for injurious leagues, or declarations of war, proves the power of parliament to make leagues or to declare war. Beſides, it being contended againſt the colonies, that the "*ſovereign power*" is lodged in king, lords, and commons, the ſame perſons may *tax* and *expend*, to what exceſs and in what manner THEY PLEASE, while the colonies will have NO KIND OF CONTROUL over them: And, that ſuch an *union* of thoſe powers is unconſtitutional and dangerous to the colonies in extreme, was the point the writer of the letter offenſively ventured to inſiſt on.

Exactly

* 1 Blackſtone 330.

omiſſion of them might have looked odd; but what force is added by their inſertion? The ſettlement of the crown of *England* includes

Exactly in the ſenſe here contended for, are the words "appropriation" and "application" uſed in ſome of the beſt authorities. Biſhop *Elly's* in his tracts on liberty, page 31, ſays—"The parliament, at preſent, in granting money does for the moſt part *appropriate* it to particular ſervices, whereby the *application* of it is more effectually ſecured." "When any aids are given, the commons only do judge of the neceſſities of the crown, which cannot be otherwiſe made manifeſt to them, than *by inquiring*, how the money which hath been granted, and revenue of the crown, is *expended and applied* *." "Out of the aids given by parliament, (which by the law of *England* are *appropriated*, and *ought to have been employed* in the common profit of the whole realm) *many large ſums of money*, during the times of ſuch heavy taxes upon the people, *have been diverted* under the head of *ſecret ſervices*, and for *ſalaries*, *bounties* and *penſions*, † &c."

Some other unfairneſſes there are in this famous piece, that need only be viewed, to be refuted; but of which, it may be ſaid, if a "precedent" eſtabliſhed by the reſpectable gentleman himſelf, can procure pardon for the expreſſion, that "they are not entitled to notice." How could he venture to aſſert as he does, that—"the *purpoſe* of the letters was to excite reſentment in the colonies againſt their parent country and to puſh them on to a ſeparation from her." The letters prove the contrary. Few men have expreſt a warmer zeal for the connexion, than the writer of them! Yet his reputation is to be attacked on every account, and a charge even of *diſloyalty* directly levelled againſt him. The author is welcome to take what other licenſes he pleaſes in his apprehenſions of the writer; but he ought not to have denied his integrity. Their *intentions* muſt ſtand the teſt of a tribunal, that decides for eternity. May they then appear equally pure.

True

* Words of the *Commons* at a conference with the Lords. *Parl. Hiſt.*
† Addreſs of the houſe of *Commons* to queen *Anne*. *Parl. Hiſt.*

cludes the ſettlement of the colonies. King *William* is mentioned—and will the gentleman venture to ſay, that *William* was not king of *England* and ſovereign of theſe colonies, before his title was "declared" or "recognized" by "an act of parliament?" The gentleman ſlurs over this caſe. His zeal for the "illuſtrious houſe of *Hanover*" would be little gratified, by inferring, that becauſe the two houſes, with the conſent of the nation, made a king, *therefore* the two houſes can make laws. Yet that concluſion would be as juſtifiable as *this*—that the aſſent of the colonies to an election of a king by the two houſes, or to the limitation of the crown by act of parliament, proves a right in parliament to bind the colonies by ſtatutes "in all caſes whatſoever." In ſuch great points, the conduct of a people is influenced *ſolely* by a regard for their freedom and happineſs. The colonies have no other head than the king of *England*. The perſon, who by the laws of that realm is king of that realm, is our king.

A DE-

True indeed are thoſe words of Lord *Clarendon*.—"Let no honeſt man that is once entered into the liſts, think, he can by any ſkill or comportment prevent theſe conflicts and aſſaults—but let him look upon it as a purgatory he is *unavoidably* to paſs through; and conſtantly performing the duties of *juſtice*, *integrity* and *uprightneſs*, depend upon PROVIDENCE, and time, for a vindication."

* This word "dependance" as applied to the ſtates connected with *England*, ſeems to be a new one. It appears to have been introduced into the language of the

A DEPENDANCE * on the crown and PARLIAMENT of *Great Britain*, is a novelty—a dreadful novelty. It may be compared to the engine invented by the *Greeks* for the deſtruction of *Troy* *. It is full of armed enemies, and the walls of the conſtitution muſt be thrown down, before it can be introduced among us.

WHEN it is conſidered that the king as king of *England* has a power in *making* laws —the power of *executing* them—of *finally* determining on *appeals*—of calling upon us for *ſupplies* in times of war or any emergency —that every branch of the *prerogative* binds us, as the ſubjects are bound thereby in *England* —and that all our intercourſe with *foreigners* is regulated by parliament. — Coloniſts may "ſurely" be acknowledged to ſpeak with truth, and preciſion, in anſwer to the "elegantly" expreſt queſtion—"What king *it* is," &c.

law, by the commonwealth act of 1659. A "dependance on parliament" is ſtill more modern. A people cannot be too cautious in guarding againſt ſuch innovations. "The credentials of the imperial ambaſſadors to the ſtates of *Holland*, were directed "TO OUR FAITHFUL AND BELOVED." The words ſeem to be very kind, but the cautious ſtates diſcovered that this was the ſtile of the imperial chancery in writing to the *vaſſals of the empire*. The queſtion was, whether the credentials ſhould be opened? And it was urged, that a ſolemn embaſſy ought not to be diſappointed, for a few trifling words. But the ſtates reſolved to ſend them back unopened, which they did. Other credentials were then ſent, with a proper direction; and the ambaſſadors were well received." Arcana imp. det. p. 196.

* 7 Co. 18.

&c. by saying that "his most gracious majesty *George* the Third" *is* the king of *England*, and therefore, "*the king*" they—profess themselves to be "*loyal subjects of*."

We are aware of the objection, that "if the king of *England* is therefore king of the colonies, they are subject to the general legislative authority of that kingdom." The premises by no means warrant this conclusion. It is built on a mere supposition, that the colonies are thereby acknowledged to be *within the realm*, and on an incantation expected to be wrought by some magic force in those woods. To be subordinately connected with *England*, the colonies *have contracted*. To be subject to the general legislative authority of that kingdom, they *never contracted*. Such a power as may be necessary to *preserve this connection* she has. The authority of the *sovereign*, and the authority of controuling our intercourse with *foreign nations* form that power. *Such a power* leaves the colonies free. But a general legislative power is not a power to preserve that connection, but to distress and enslave them. If the first power cannot subsist without the last, she has no right even to the first—the colonies were deceived in their contract—and the power must be unjust and illegal; for God has given to them *a better right* to preserve their liberty, than to her to destroy it. In other words, supposing king, lords and commons, acting in parliament, constitute

ſtitute a *ſovereignty* over the colonies, is that ſovereignty conſtitutionally *abſolute* or *limited*? That ſtates without freedom ſhould *by principle* grow out of a free ſtate, is as impoſſible, as that ſparrows ſhould be produced from the eggs of an eagle. The ſovereignty over the colonies muſt be * *limited*. *Heſiod* long ſince ſaid, "half is *better* than the whole;" and the ſaying never was more juſtly applicable, than on the preſent occaſion. Had the unhappy *Charles* remembered and regarded it, his private virtues might long have adorned a throne, from which his public meaſures precipitated him in blood. To argue on this ſubject from other inſtances of parliamentary power, is ſhifting the ground. The connexion of the colonies with *England*, is a point of an unprecedented and delicate nature. It can be compared to no other caſe; and to receive a juſt determination, it muſt be conſidered with reference to its own peculiar circumſtances †. The common law extends to colo-

* "*Nec* REGIBUS *infinita aut libera poteſtas*, was the conſtitution of our *German* anceſtors on the continent, and this is not only conſonant to the PRINCIPLES of NATURE, of LIBERTY, of REASON, and of SOCIETY, but has always been eſteemed an expreſs part of the COMMON LAW of *England*, even when *prerogative was at the higheſt*." 1 Black. 233.

† The learned Judge [in Vol. 1. pag. 107.] ſays this country was not "*uninhabited* when diſcovered and planted by the Engliſh, &c. but *ought to be conſidered* as a *conquered*, *ceded*, or *infidel* country. Our *American* plantations are *prin-*

colonies; yet Mr. Juſtice *Blackſtone* ſays, "ſuch parts of the law as are neither *neceſſary*

nor

principally of this latter ſort, being obtained in the laſt century, either by right of *conqueſt* and *driving out* the natives (with what natural juſtice, I ſhall not at preſent inquire) or by *treaties*: and therefore the common law of *England*, as ſuch, has no allowance or authority there, they being *no part* of the mother country, but diſtinct (though dependent) dominions. They are ſubject however to the controul of the parliament."

According to this doctrine, the *coloniſts* are conſidered *in a legal view* by the parent ſtate, "as *infidels* or *conquered people*," not as her children with her conſent eſtabliſhing ſocieties for her benefit. Though not a ſingle man of the "infidels or conquered" people, ſhould now be found to reſide in each colony; yet a political contagion is communicated to *Engliſhmen in ſecula ſeculorum*, becauſe *Indians* once fiſhed in the rivers, and hunted in the woods. If *this* be their "*condition*," then according to the law laid down by the Judge, "they are ſubject not only to the controul of *parliament*, but the *King* may *alter* and *impoſe* what laws *he pleaſes**."

It is not known what the learned Judge means by the word "*principally*." Perhaps he alludes to the ill directed *humanity* and *juſtice* of the firſt ſettlers of ſome colonies, who purchaſed the lands from the natives, for valuable and ſatisfactory conſiderations. It was a very uſeleſs exerciſe of their virtues, for their poſterity. If they had *by accident* ſettled an "*uninhabited*" country, the invaluable rights of the common law would have *attended* them; but when they *dared* to obtain a ſettlement by *humanity* and *juſtice*, they *forfeited* all rights of the common law, to the lateſt ſucceeding ages. *Can this be law?* Every caſe quoted by the Judge, it is humbly apprehended, makes a diſtinction between ſtates or ſocieties compoſed of *Engliſh ſubjects*, and thoſe compoſed of "*conquered*" people, &c. and that *this* is the only diſtinction warrantable by thoſe caſes.

That

* 1 Blackſtone 107, and the caſes there cited.

nor *convenient* for them, as the jurisdiction of the spiritual courts, &c. are therefore not in force."

That the *conquerors* should be considered As the *conquered*, the *expellers of the natives* As the *expelled natives*, and the *christian possessors and owners by fair purchases from those who had a right to sell*, As the *infidels no longer possessing or owning*, seems to involve a confusion of ideas, little agreeing with the strength of reason that informs the common law.

It is very remarkable, how our ablest antagonists are perplexed in framing their arguments against us. Even the learned Judge does not express himself with his usual perspicuity: but the want of it is well atoned, if we, colonists, can be thereby deprived of the benefits of the *common law*, and be absolutely subjected to the *king*; for *these* courtly tenets are the *only* consequences deducible from the curious *argument* that tends to involve *these colonies* in the misfortunes of "*conquered*, *ceded*, or *infidel* countries." The "controul of parliament" is asserted to be supreme, in every case. Whether the colonies were settled in "uninhabited countries," or in "conquered, ceded, or infidel countries," makes no difference as to *that* point.

Another learned gentleman has discovered, that we "are not entitled to as great a degree of freedom as *Ireland*." Why? "Because *Ireland* was a *conquered* country." This remark does not seem to remove the difficulty. Let us hear the point a little more explained. "*Ireland* it is true was *conquered*, but certain *concessions* were made to the people. These were the terms granted them, but *England* is obliged to keep no terms with the colonists." At every step these gentlemen take, those writers, who have contributed so much to the glory of their country, turn upon them, and directly oppose them. They at first shrink before these venerable advocates for liberty and humanity—but recollecting themselves, they distinguish and refine, in order to take away the substance of every argument, and to whittle down a *Hooker* and a *Locke* into a *Leftrange* and a *Filmer*. After taking these liberties, they at length grow bold enough to arraign the authority of any man, even Mr. *Locke*

force." If even the COMMON LAW, in force within the realm of *England* when the coloniſts quitted it, is thus abridged by the peculiar circumſtances of colonies, at leaſt equally juſt, and conſtitutional is it, that the POWER OF MAKING NEW LAWS within the realm of *Eng-*

land,

Locke himſelf, if his writings cannot, by all this art, be turned to their purpoſe.

We need not be ſurpriſed after this, that every coloniſt, who ventures honeſtly to aſſert as well as he can the cauſe of his native land, ſhould be treated with little reſpect. The colonies have always been on the *defenſive*. IT IS HOPED THEY WILL ALWAYS CONTINUE SO. But the author of "the controverſy" charges them with great cunning, a left handed wiſdom, that muſt diſgrace any people—becauſe they have not reſiſted, in places where they were not immediately attacked. "It is the *artifice* of the managers, on the part of the colonies, to avoid *general* queſtions, and to keep back and conceal conſequences, leſt the unſuſpecting people of *England* ſhould too ſoon catch the alarm, and reſolve to withſtand their firſt attempts at independency*." That is—they have acted juſt as the "unſuſpecting people of *England*" have done in their controverſies with the crown. *They* confined themſelves, from time to time, to a demand of redreſs for the injuries offered them. This behaviour of the coloniſts would, by ſome perſons, be deemed modeſt and reſpectful. Now indeed the conduct of adminiſtration demonſtrates to us, that we muſt enlarge our views, and endeavour to take a proſpect of all the miſchiefs neceſſarily attending a claim of boundleſs power with an unbounded inclination to exerciſe it. The gentleman may perhaps call for fire and faggots to extirpate our political hereſy; but we truſt, and truſt *firmly*, that the ſenſe and generoſity of the good people of *England*, will diſcover and defeat the preſent plan againſt *their* liberties, as they have already ſo many other ſchemes of that tendency---that they will behold their dutiful children with compaſſionate love, and with juſt indignation

thoſe

* Pa. 15.

land, ſhould be abridged with reſpect to colonies, by thoſe peculiar circumſtances *.

THE

thoſe unrelenting enemies from whom *they* can expect no other favour, but that *England* "ſhall be the laſt they will devour."

* The author of the controverſy, in page 31 of his work, argues thus concerning the legiſlative power of *Great-Britain* over the colonies. "The lands in all the "colonies having therefore been clearly ſhewn to be part "of the dominions of *Great-Britain*, and the poſſeſſors "of them to hold them under authorities and titles deri-"ved from the *Britiſh* ſtate, Mr. *Locke* would require no "other proof of the right of the legiſlative power of *Great-"Britain* to the obedience of the poſſeſſors of thoſe lands; "for ſpeaking of the manner by which a man tacitly "makes himſelf a ſubject of any country or government, "he ſays,"

"It is commonly ſuppoſed, that a father could oblige "his poſterity to that government of which he himſelf was "a ſubject, and that his compact held them; whereas it "being only a neceſſary condition annexed to the land, "and the inheritance of an eſtate, which is under that "government, reaches only thoſe who will take it on that "condition, and ſo is no natural tie or engagement, but a "voluntary ſubmiſſion; for every man's children being by "nature as free as himſelf, or any of his anceſtors ever "were, may, whilſt they are in that freedom, chooſe what "ſociety they will join themſelves to, what commonwealth "they will put themſelves under; but if they will enjoy "the inheritance of their anceſtors, they muſt take it on "the ſame terms their anceſtors had it, and ſubmit to "all the conditions annexed to ſuch a poſſeſſion." Who-"ever (ſays he in another place) by inheritance, purchaſe, "permiſſion, or otherways, enjoys any part of the lands "ſo annexed to, and under the government of, that com-"monwealth, muſt take it with the condition it is un-"der; that is, of ſubmitting to the government of the "commonwealth under whoſe juriſdiction it is, as far "forth as any ſubject of it." Page 31. The ingenuity

5 of

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THE laws of *England* with reſpect to prerogative, and in other inſtances, have accommodated

of the gentleman is here again remarkable. Mr. *Locke*, in his 8th chapter on civil government, "Of the beginning of political ſocieties," *immediately* before the words abovementioned "Whoever by inheritance," &c. ſpeaks of a man who "*unites* his perſon which was before free to a ſociety for the *ſecuring* and *regulating* of property, and *ſubmits* to the community thoſe poſſeſſions which he has or ſhall acquire, that do not already belong to any other government." Theſe words the gentleman not thinking quite to his purpoſe *in this place*, ſeparates from the words of his quotation, and ſo gives Mr. *Locke*'s concluſion without his premiſſes. However three pages after, he is ſo candid, as to give the premiſes without the concluſion. How, or why? to ſupport this moſt curious diſtinction--that Mr. *Locke*, in that celebrated part of his argument where ſpeaking of "government taking the property of ſubjects," he ſays "WHAT PROPERTY HAVE I IN THAT, WHICH ANOTHER MAY BY RIGHT TAKE FROM ME WHEN HE PLEASES," * *means no more*" than that the ſupreme legiſlative power has no right to take the property of others without their conſent "for the PRIVATE USE OR PURPOSE of the legiſlative." So that according to this conſtruction the conſtitution of a well eſtabliſhed government, or the freedom of a people, depends not on the great right which GOD has given them "of having a ſhare in the government of themſelves," whereby their property is ſecured, but merely, on the "*purpoſe*" to which the property taken from them without their conſent is *applied* by thoſe who thus take it. And yet this gentleman has ſeverely attacked the writer of the letters, for uſing the word "*purpoſe*" in a much *more confined* ſenſe, in ſaying a "tax is an impoſition on the ſubject for the *ſole purpoſe* OF LEVYING MONEY."

Mr. *Locke*, in the preceding chapter, ſpeaking of monarchy ſays, "that abſolute power purifies not mens bloods. For if it be aſked what ſecurity or fence ariſes *in ſuch*

* Pa. 33.

modified themselves, without alteration by statutes, to a change of circumstances, the welfare

such a state, against the violence and oppression of the *absolute ruler*? the very question can scarce be borne. They are ready to tell you it deserves death, only to ask after safety. Betwixt subject and subject they will grant there must be measures, laws and judges for their mutual peace and security: But as for the *ruler*, *he ought to be absolute, and is above all such circumstances*; because he has power to do more hurt and wrong, 'tis right when he does it. To ask how you can be guarded from harm or injury on that side where the strongest hand is to do it, is presently the voice of *faction* and *rebellion*." But here our opponent may come in with another distinction. "Mr. *Locke* speaks here of an *absolute ruler*, not of *absolute rulers*. *Lilly* proves there is the singular and plural number. A power that Mr. *Locke* would have held illegal in a *Pisistratus* or a *Stuart*, he would have held legal in the *four hundred of Athens*, or the *parliament* of *Great Britain*." Let the distinction be allowed its due weight. Can it be believed that such a friend to mankind, as Mr. *Locke* was, could ever think *absolute dominion* * just or legal? Would not such a sentiment directly oppose those principles, his benevolence induced him to take so much pains to vindicate and establish? Would the sound of the words—"dependance—" "subordination—" "within the realm—" "part of the dominions—" &c. have convinced him, that it was "the indispensable duty of parliament to ease the gentry and people of *Great Britain* by TAXING the colonists without their consent?"—and that it was the indispensable duty of the colonists *on constitutional principles* to submit to such taxation? The learned say that the too rigid attention of the mind to one idea sometimes is the cause of madness. So rigid has been the attention of many heads in *Great Britain* to the idea of *dependance*, that it seems to have occasioned a kind of insanity in them; and by ruminating, speech-

* "*Absolute dominion*, HOWEVER PLACED, is so far from being one kind of *civil society*, that it is as *inconsistent* with it, as *slavery* is with *property*." *Locke* on civil gover. p. 174.

ſate of the people ſo requiring. A regard for that grand object perpetually animates the con-

ſpecifying, and caſting about it and about it, they have loſt all ideas of juſtice, humanity, law and conſtitution, and in ſhort of every quality that uſed to diſtinguiſh men from the reſt of this creation, and *Engliſhmen* from the reſt of mankind. But Mr. *Locke*'s underſtanding, even in the preſent whirl of the political world, would have preſerved him, juſt and tenacious of his principles. The caſe he puts, and on which the author of "the controverſy" argues, is that of *a ſubmiſſion to the terms of government in a common-wealth.* The queſtion between *Great Britain* and the colonies, is, *what are the terms* of their connexion under all the circumſtances of it?

It is not recollected that Mr. *Locke* ever inſinuates, that the parliament of *Great Britain* might bind the people of *Ireland* by ſtatutes, "*in all caſes whatſoever.*" Yet there was in his time a famous diſpute concerning the authority of parliament over that kingdom. So far was he from favouring the claim of parliament, that it is hoped, it can clearly be proved, he favoured the other ſide of the queſtion.

His friend Mr. *Molineux*, in a letter dated *March* 15, 1697-8, tells him of his intentions to viſit him—when he could get looſe from buſineſs: "But this I cannot hope for till the parliament in *England* riſes. I ſhould be glad to know from you when that is expected, for indeed they bear very hard upon us in *Ireland*. How juſtly they can bind us, *without our conſent and repreſentatives*, I leave the author of the two treatiſes on government to conſider"—meaning Mr. *Locke*'s two treatiſes—one on government—the other on civil government; though they are publiſhed alſo as one treatiſe, the firſt book of which is under the firſt title, and the ſecond book under the ſecond title.

Mr. *Locke*, in his anſwer, dated *April* 6, 1698, ſays, "amongſt other things I would be glad to talk with you about, before I die, is that which you ſuggeſt at the bottom of the firſt page of your letter. I am mightily concerned for the *place* you meant in the queſtion you ſay you will

aſk

conſtitution, and regulates all its movements —unleſs unnatural obſtructions interfere.—

" *Spiritus intus alit, totamque infuſa per artus*
" *Mens agitat molem, & magno ſe corpore miſcet.*"

ANOTHER argument for the extravagant power of internal legiſlation over us remains. It has been urged with great warmth againſt us, that " *precedents*" ſhew this power is rightfully veſted in parliament.

SUBMISSION to unjuſt ſentences proves not a *right* to paſs them. Careleſsneſs or regard for the peace and welfare of the community, may cauſe the ſubmiſſion. Submiſſion may ſometimes be a leſs evil than oppoſition, and therefore a duty. In ſuch caſes, it is a ſubmiſſion to the *divine authority*, which forbids us to injure our country; not to the *aſſumed authority*, on which the unjuſt ſentences were founded. But *when* ſubmiſſion becomes inconſiſtent with and deſtructive of the *public good*, the ſame veneration

aſk the author of the treatiſe you mention, *and wiſh extremely well to it*, and would be very glad to be informed by you *what would be beſt for it*, and debate with you the way to compoſe it: but this cannot be done by letters; the ſubject is of too great extent, the views too large and the particulars too many to be ſo managed. Come *therefore* yourſelf, *and come as well prepared as you can*. But if you talk with others on *that* point there, *mention not me to any body on that ſubject*; only let *you* and *I try what good we can do for thoſe whom we wiſh well to*; great things have ſometimes been brought about from ſmall *beginnings well laid together*."

Mr. *Molineux* quickly after came over from *Ireland* to *England* to ſee Mr. *Locke*.

veneration for and duty to the *divine authority*, commands us to oppose. The all wise Creator of man impreſt certain laws on his nature. A deſire of happineſs, and of ſociety, are two of thoſe laws. They were not intended to deſtroy, but to ſupport each other. Man has therefore a right to *promote* the *beſt* union of both, in order to enjoy both in the *higheſt* degree. Thus while this right is properly exerciſed, deſires, that ſeem *ſelfiſh*, by a happy combination, produce the welfare of *others*. "This is removing ſubmiſſion from a foundation unable to ſupport it, and injurious to the honour of GOD, and fixing it upon much firmer ground *."

No ſenſible or good man ever ſuſpected Mr. *Hooker* of being a *weak* or *factious* perſon, "yet he plainly enough teacheth, that a ſociety, upon experience of univerſal evil, *have a right* to try by *another* form to anſwer more effectually the ends of government"—And Mr. *Hoadley* aſks—"Would the *ends of government* be deſtroyed ſhould the miſerable condition of the people of *France*, WHICH HATH PROCEEDED FROM THE KING'S BEING ABSOLUTE, awaken the thoughts of the wiſeſt heads amongſt them; and move them all to exert themſelves, ſo as that thoſe ends ſhould be better anſwered for the time to come?

WHAT mind can reliſh the hardy propoſition, that becauſe precedents have been introduced

* HOADLEY's diſc. on government.

troduced by the inattention or timidity of *some*, and the cunning or violence of *others*, THEREFORE the latter have a *right* to make the former miserable—that is, that precedents that ought never to have been set, yet being set, repeal the eternal laws of natural justice, humanity, and equity *.

THE argument from precedents begins unluckily for its advocates. The *first* produced against

*——————"I could never think
A mortal's law of power or strength sufficient
To abrogate the unwritten law divine,
Immutable, eternal, not like these
Of *yesterday*, but made ere time began."
Sophocles's Antig. Franck. Transl.

It should be considered, whether it ever was or ever can be the true interest of a kingdom or state to violate the laws of natural justice, equity, and humanity. These laws may be called the laws of GOD. Can they be broken with impunity? The Scriptures are full of lessons on this subject, and history furnishes instances sufficient to alarm oppressors, if they would attend to them. All the glories of *Charles* the Bold,—*Charles* the Fifth,—*Philip* the Second,—*Charles* the Twelfth,—*Lewis* the Fourteenth,—and a numerous list of distinguished princes, were overcast, when unrelenting cruelty came to preside over their resolutions. From *Athens* to *Genoa* the observation holds true. Let not the opinion be condemned as presumptuous, before it be fully enquired into. It is worth an enquiry.

"Discite justitiam moniti & non temnere divos."

England has been prosperous in many civil wars, but they were in defence of liberty. She never engaged in one against liberty.—Would to Heaven, she would set the world the much wanted example of lenity in government. Mankind might gain by it. The other mode has been sufficiently tried, and proved to be impolitic and ruinous.

against us by the gentleman before mentioned was an act passed by the *Commonwealth* parliament in 1650 to "punish" *Virginia**, *Barbadoes*, *Antigua*, and *Bermudas*, FOR THEIR FIDELITY TO CHARLES THE SECOND. *So much* is the *right* of parliament to "*punish*" Colonists *for doing their duty*. But the parliament had before overturned *church* and *throne*, so that there is an older "precedent" set against these.

THAT parliament sat amidst the ruins that surrounded it, fiercer than *Marius* among those of *Carthage*. Brutal power became an irresistible argument of boundless right. What the style of an *Aristotle* could not prove, the point of a *Cromwell*'s sword sufficiently demonstrated. Innocence and Justice sighed and submitted. —What more could they do? The Restoration took place, and a *legal* parliament would not doubt but it had as extensive a right as an *illegal* one. The Revolution succeeded, and with it *methods* for blending together the powers of king and people in a manner before unknown. A new political alembic was fixed on the great principle of resistance, and in it, severe experiments were to be made on every

 other

* This loyal, generous colony preserved its principles with such spirit, notwithstanding the oppression abovementioned, that in *January* 1659, they threw off all obedience to the parliament, replaced the king's governor, and proclaimed *Charles* the Second, several months before the Restoration in *Europe*.

other principle of the conſtitution. How the *boldneſs of miniſters* and *contempt of the people* have increaſed ſince that period, not a man the leaſt acquainted with *Engliſh* hiſtory can be ignorant. The Colonies were in a ſtate of infancy—ſtill in a ſtate of childhood. Not a ſingle ſtatute concerning them is recollected to have been paſt before the Revolution, but ſuch as related to the regulation of trade. "Precedents" were afterwards made, that, when they grew up, the authority of a *maſter* might ſucceed that of a *parent*.

PRECEDENTS, it is apprehended, are no otherwiſe regarded in the *Engliſh* laws than as they eſtabliſh *certainty* FOR THE BENEFIT OF THE PEOPLE—according to the maxim—"miſerable is the ſervitude when the laws are *uncertain*." Precedents militating againſt the welfare or happineſs of a people, are inconſiſtent with the grand original principle on which they ought to be founded. Their ſuppoſed ſanction encreaſes in proportion to the repetitions of injuſtice. They muſt be void. In ſubjects of diſpute between man and man, precedents may be of uſe, though not founded on the beſt reaſon. They cauſe a certainty, and all may govern themſelves accordingly. If they take from an individual one day, they may give to him the next. But precedents to overthrow *principles*, to juſtify the *perpetual* oppreſſion of *all*, and to *impair the power of the conſtitution*, though a cloud of

them appear, have no more force than the volumes of duſt that ſurround a triumphal car. They may obſcure it: they cannot ſtop it. What would the liberties of the people of *England* have been at this time, if precedents could have made laws inconſiſtent with the conſtitution? Precedents, tending to make men unhappy, can with propriety of character be quoted only by thoſe beings to whom the miſery of men is a delight.

"If the uſage had been immemorial and uniform, and ten thouſand inſtances could have been produced, it would not have been ſufficient; becauſe the practice muſt likewiſe be agreeable to the *principles of the law* *, in order to be good: whereas this is a practice inconſiſtent with, and in direct oppoſition to, the *firſt and cleareſt principles of the law* †"—to thoſe *feelings of humanity*, out of which mankind will not *be reaſoned*, when power advances with gigantic ſtrides threatening diſſolution to a ſtate—to thoſe *inherent though latent powers of ſociety*, which no *climate* ‡, no *time*, no *conſtitution*, no *contract*, can ever deſtroy or diminiſh ‖."

A

* This is a maxim of law, that—"a bad uſage ought to be aboliſhed."

† Letter on general warrants.—

‡ 1 Blackſtone, p. 245.

‖ EQUAL DISTRIBUTION of JUSTICE, and FREE ENJOYMENT of PROPERTY, are the *great* objects of *ſociety*; and

A PARLIAMENTARY power of internal legislation over these colonies, appears therefore to us, equally contradictory to humanity and the constitution, and illegal.

As to the second head, a power of regulating our trade, our opinion is, that it is legally vested in parliament, not as a supreme legislature over these colonies, but as the supreme legislature and full *representative* of the parent state, and the only judge between her and her children in commercial interests, which the nature of the case, in the progress of their growth, admitted. It has been urged with great vehemence against us, and seems to be thought their *fort* by our adversaries, "that a power of regulation is a power of legislation, and a power of legislation, if constitutional, must be

and no *time, precedent, statute*, or *institution*, should *deter* men from keeping *these* UPPERMOST in their thoughts."
Mr. *Hume*'s hist. of *England*.

"The jurisdiction of the star chamber, martial law, imprisonment by warrants from the privy council, and other practices of a like nature, though *established for several centuries*, were scarce ever allowed by the *English* to be parts of their constitution: THE AFFECTION OF THE NATION FOR LIBERTY STILL PREVAILED OVER ALL PRECEDENT, AND OVER ALL POLITICAL REASONING: The exercise of these powers, after being long the source of secret murmurs among the people, was, in fulness of time, solemnly abolished, as illegal, at least as oppressive, by the whole legislative authority." id. To these instances may be added, the late practice of general warrants, that had the sanction of precedents, even since the Revolution.

be universal and supreme in the utmost force of the words. It is therefore concluded, that the colonists, by acknowledging the power of regulation, have acknowledged every other power. On this objection we observe, that according to a maxim of law, "it is deceitful and dangerous to deal in general propositions." The freedom and happiness of states depend not on * *artful arguments*, but on *a few plain principles*. The plausible appearance of the ob-

* Our chance of success would be slight indeed, if it depended on subtleties of reasoning. Who can resist the skilful and courageous attacks of those *Britons*, who have not long since distinguished themselves in the polemical fields? Have they not *proved* to the satisfaction of thousands, the non-existence of matter—the necessity of human actions—consequently the innocence of them—the comfortable mortality of the soul—that virtue is a name—vice a jest—liberty a non-entity—christianity an imposture—and, with due detestation be it mentioned, that we *have no idea* of *power*, nor of any *Being* endowed with any power, MUCH LESS of *one* endowed with infinite power?

With explosions of learning and flashes of wit, these well trained troops would keep up a terrible fire of artillery and small arms against us undisciplined *Americans*. We must not meet them in the shock of battle. THAT WOULD BE MADNESS IN THE EXTREME. We must make the most of our *natural* advantages.---*There* we are *safe*; and all the forces that can be brought to the assault, will never be able to prevail against us. To drop the metaphor. "Inquiry ceases to be rational, and becomes both whimsical and pernicious, when it advances as far as some late authors have carried it, to controvert the first principles of knowledge, morality, religion, and consequently the fundamental laws of the *British* government, and of all well regulated society." Mr. *Beattie* on truth.

It

objection conſiſts in a confuſed comprehenſion of ſeveral points, entirely diſtinct in their nature, and leading to conſequences directly oppoſite to each other. There was a time, when *England* had no colonies. Trade was the object ſhe attended to, in encouraging them. A love of freedom was manifeſtly the chief motive of the adventurers. The connexion of colonies with their parent ſtate may be called a new object of the *Engliſh* laws. That her right extinguiſhes all their rights,—rights eſſential to freedom, and which they would have enjoyed, by remaining in their parent ſtate, is offenſive to reaſon, humanity, and the conſtitution of that ſtate. Colonies could not have been planted on *theſe* terms. What *Engliſhman*, but an ideot, would have become a coloniſt on theſe conditions? to mention no more particulars, "That every ſhilling he gained, might rightfully be taken from him —trial by jury aboliſhed —the building houſes, or making cloths with the materials found or raiſed in the colonies, prohibited—and armed men ſet over him to govern him in every action?"

HAD

It has been aſſerted by ſome men diſtinguiſhed as hiſtorians, that the zeal of the reformers in religion engaging them to think liberally on that ſubject, led them to think with like freedom in civil affairs, whereby the government of *England* received its greateſt improvement. If the ſentiment is juſt, may it not be inferred, that contempt for religion, muſt neceſſarily introduce an indifference for all the juſt rules of government and the principles of the conſtitution?

HAD these provinces never been settled—had all the inhabitants of them now living, been born in *England*, and resident there, they would now enjoy the rights of *Englishmen*, that is, they would be free *in that kingdom*. We claim *in the colonies* these and no other rights. *There* no other kingdom or state interferes. But their trade, however important it may be, as the affairs of mankind are circumstanced, turns on other principles. All the power of parliament cannot regulate *that* at their pleasure. It must be regulated not by parliament alone, but by treaties and alliances *formed by the king* WITHOUT THE CONSENT OF THE NATION, with other states and kingdoms. *The freedom of a people consists in being governed by laws, in which no alteration can be made, without their consent.* Yet the wholesome force of these laws is *confined* to the limits of their own country. That is, a supreme legislature to a people, which acts *internally* over that people, and inevitably implies *personal* assent, *representation*, or *slavery*. When an universal empire is established, and not till then, can regulations of trade properly be called acts of supreme legislature. It seems from many authorities, as if almost the whole power of regulating the trade of *England* was originally vested in the crown. One restriction appears to have been, that no duty could be imposed without the consent of parliament. Trade was little regarded by our warlike ancestors. As commerce became of

more importance, duties and severities were judged necessary additions to its first simple state, parliament more and more interfered. The constitution was always free, but not always exactly in the same manner. "By the Feodal law, all *navigable* rivers and *havens* were computed among the regalia, and were subject to the sovereign of the state. And in *England* it hath always been held, that the king is lord of the whole shore, and particularly is guardian of the ports and havens, which are the inlets and gates of the realm: and therefore, so early as the reign of king John, we find ships seized by the king's officers, for putting in at a place that was not a legal port. These legal ports were undoubtedly at first assigned by the crown; since to each of them a court of portmote is incident, the jurisdiction of which must flow from the royal authority. The erection of beacons, lighthouses, and sea marks is also a branch of the royal prerogative. The king may injoin any man from going abroad, or command any man to return. The powers of establishing public marts, regulating of weights and measures, and the giving authority to, or making current, money, *the medium of commerce*, belong to the crown. By making peace or war, leagues and treaties, the king may open or stop trade as he pleases. The admiralty courts are grounded on the necessity of supporting a jurisdiction so extensive, though opposite to the usual doctrines of the common law. The

laws

laws of *Oleron* were made by *Richard* the Firſt, and are ſtill uſed in thoſe courts." In the "*Mare cauſum*" are ſeveral regulations made by kings *. Time forbids a more exact en-

 quiry

* The power of regulating trade was carried ſo far by the crown, as ſometimes to impoſe duties; and queen *Elizabeth* obtained ſeveral judgments in the exchequer on ſuch regulations. Lord chief juſtice *Coke* anſwers the argument founded on theſe—in 2 inſt. 62, 63. Princes aimed at too much power—exceeded due bounds—their imprudence produced "grievances"—and the people, who always ſuffer when their rulers are weak or wicked, would no longer truſt ſuch *opportunities of oppreſſion* in their hand. The power of *impreſſing* ſeamen ſhews the extenſive authority in *naval affairs* truſted to "the crown."
1 Blackſt. 419. Foſter's rep. 154.

So extremely averſe were the *Engliſh* to *foreign affairs*, and to the exerciſe even of parliamentary authority concerning them, that though the nation was juſtly provoked againſt the *French* king for the injury done to *Edward* the 1ſt by withholding *Aequitaine* and his other inheritances in manner (as lord chief juſtice *Coke* obſerves in his 2d. inſt. p. 532.) and by ſome cruel actions of *Frenchmen* againſt *Engliſhmen*, and had in full parliament granted him aids, ſubſidies, for the maintenance of his wars in foreign parts, yet in the CONFIRMATIONES CHARTARUM, Ed. 1ſt. therein taking notice, "that many men doubted, whether theſe grants *by parliament* might not turn *in ſervage of them* and their heirs, *as precedents*, expreſsly declares in thoſe ſtatutes, that ſuch grants ſhall not be drawn into cuſtom." The comment ſays—"it was holden that the ſubjects *of the realm* ought not to contribute to the maintenance of the king's wars *out of the realm*—but this matter was never in quiet, until it was more particularly explained by divers acts of parliament." The comment then mentions ſeveral acts declaring that no *Engliſhman* ſhould be bound to contribute to the king's wars *out of England*, in *Scotland*, *Gaſcoigny*, *Ireland*, *Calais* (though *theſe three laſt* were countries *dependent on*

 England)

quiry into this point: but such it is apprehended will on enquiry be found to have been the power of the crown, that our argument may gain,

England) and says, "these acts of parliament are but declarations of the antient law of *England*.—But here may be observed, that when any antient law or custom of parliament" (such as before mentioned by making acts relating to foreign wars) "is broken, and the crown possessed of a precedent, how difficult a thing it is, TO RESTORE THE SUBJECT AGAIN TO HIS FORMER FREEDOM AND SAFETY." 2 inst. 527—529.

The author of "the controversy," who with a liberality of sentiment becoming a pleader against freedom and the best interest of mankind, counts "statute books"—"ministers"—"king's council"—p. 77, 78. —"scraps of journals"——p. 81. and ordinances of "the rump parliament"—p. 87. among *his* "DEITIES" p. 78; and grieves that we poor "*infidel*" colonists will not pay his idols the veneration his zeal judges due to them, has collected a good many fragments of proceedings in the House of Commons from the year 1614 to 1628. The amount is this, that the ministers of the crown insisted, that parliament could not make laws for *America*; that the commons doubted; but at length in 1724, came to an opinion, that the king's patent for "a *monopoly* of fishing on the *coasts of America* was a *grievance*,"—that a "*clause of* FORFEITURE" against those who interfered in the fishery was void---and past a bill "for a *free* liberty of *fishing*," &c. It appears in the debates that the fishery was free *before the patent was granted*.---These extracts do not shew what became of the bill in the House of Lords. One Mr. *Brooke* said in 1621——"We may make laws here for *Virginia*, for *if the king gives consent* to this bill past here and by the lords, this will controul the patent."

It seems, as if the notion of the king's regulating power still prevailed, but, that "a clause of *forfeiture*" in such regulations was void. So much had the power of parliament grown since king *John*'s reign. Nor does it appear to have been unreasonable, as commerce became of more consequence. The instance here mentioned, related

gain, but cannot lose. We will proceed on a conceſſion, that the power of regulating trade is veſted in parliament.

COMMERCE reſts on conceſſions and reſtrictions mutually ſtipulated between the different powers of the world *; and if theſe colonies were ſovereign ſtates, they would in all probability be reſtricted to their preſent portion †. The people of *England* were *freemen*,

lated to a regulation of trade; and however the king might have accommodated the point, with the other branches of the legiſlature, the whole proceeding is immaterial. If it was a right actually enjoyed by *Engliſhmen* to fiſh on the coaſts of a plantation---and a grant by the crown of the fiſhery to the people of the plantation excluding the people of *England*, could not *diveſt them* of their right——or, "if by the king's giving his conſent to a bill paſſed by lords and commons"——"the patent might be controuled"——it does not follow, that the king, lords and commons could diveſt the people of the plantations of all *their* rights.

* Caſe of the *Oſtend Eaſt India* company.

† "Another light, in which the laws of England conſider the king with regard to domeſtic concerns, is the arbiter of commerce. By commerce, I at preſent mean domeſtic commerce only. It would lead me into too large a field, if I were to attempt to enter upon the nature of *foreign trade*, its privileges, regulations, and reſtrictions; and would be alſo quite beſide the purpoſe of theſe commentaries, which are confined to the laws of England. Whereas no *municipal laws can be ſufficient to order and determine the very extenſive and complicated affairs of traffic and merchandize; neither can they have a proper authority for this purpoſe.* For, as theſe are tranſactions carried on between ſubjects of independent ſtates, the municipal laws of one will not be regarded by the other. For which reaſon the affairs of commerce are regulated by a law of their

men, before they were *merchants*. Whether *they* will continue *free*, they *themſelves* muſt determine. *How they ſhall trade*, muſt be determined by *Germans*, *French*, *Spaniards*, *Italians*, *Turks*, *Moors*, *&c.* The right of acquiring property depends on the rights of *others*: the right of *acquired* property, ſolely on the owner. The poſſeſſor is no owner without it. "Almoſt every leaf and page of *all* the volumes of the common law prove this right of property *." Why ſhould this right be ſacred in *Great Britain*, "the chief corner ſtone" in the ſolid foundation of her conſtitution, and an empty name in her colonies? The lamb that preſumed to drink in the *ſame ſtream* with a ſtronger animal, *though lower down the current*, could not refute the charge of incommoding the latter, by diſturbing the water. Such power have reaſons that appear deſpicable and deteſtable at firſt when they are properly enforced.

FROM *this very principle* aroſe *her power*; and can *that* power now be *juſtly* exerted, in *ſuppreſſion* of *that* principle? It cannot. Therefore,

their own, called the law merchant or *lex mercatoria*, which all nations agree in and take notice of. And in particular it is held to be part of the law of *England*, which decides the cauſes of merchants by the general rules which obtain in all commercial countries; and that often even in matters relating to domeſtic trade, as for inſtance with regard to the drawing, the acceptance, and the transfer of inland bills of exchange."

* Parlia. hiſt.

fore, a power * of regulating our trade involves not in it the idea of supreme legislature over

* This distinction between a supreme legislature and a power of regulating trade, is not a new one. We find it clearly made, by the judges of *England*, at a period, when the modern profitable mode of blending together in parliament the authorities of the crown and people, had not extinguished all reverence for the principles of the constitution.

By the statute of the 2d of *Henry* 6th ch. 4th *Calais* was confirmed a staple place for the wool exported from *England*, *Wales* and *Ireland*. Some wool shipped from this last kingdom, was consigned to *Sluice* in *Flanders*. The ship by stress of weather was forced into *Calais*, where the wool was seized as forfeited. The chief question in the exchequer chamber was, whether the statute bound *Ireland*. In Rich. 3, 12, the case is thus reported "Et ibi quoad ad primam questionem dicebant, quod terra *Hiberniæ* inter se *habet parliamentum* & omnimodo curias prout *Anglia*, & per idem parliamentum faciunt leges & mutant leges, & NON OBLIGANTUR PER STATUTA IN ANGLIA, QUIA NON HIC HABENT MILITES PARLIAMENTI; sed hoc intelligitur DE TERRIS *per* REBUS IN TERRIS TANTUM EFFICIEND; sed PERSONÆ EORUM SUNT SUBJECTI REGIS, et tanquam subjecti ERUNT obligati ad aliquam rem EXTRA TERRAM ILLAM FACIENDAM contra statutum, sicut habitantes in *Calleſia*, *Gascognia*, *Guien*, &c. dum fuere subjecti; & obedientes erunt SUB ADMIRALITATE ANGLIÆ DE RE FACTA SUPER ALTUM MARE; et *similiter* breve de errore de judiciis redditis in *Hibernia* in banco regis hic in *Anglia*."

Brooke, lord chief justice of the common pleas, mentions the case almost in the same words, title parliament 98—but says—"the chief justice was of opinion, that the statutes of *England* shall bind *Ireland*, which was *in a manner* agreed by the other justices; and yet it was denied the former day: YET *note*, that *Ireland* is a realm of itself, and *has a parliament in itself*."

Here it may be observed, *first*, that the reason assigned by the judges, why the statutes of *England* bind not the people

over us. The first is a power of a preserving "protecting" nature. The last, as applied to

people of *Ireland*, though *specially named*, contains a constitutional principle, the *sine qua* of freedom. *Secondly*, that the people of *Ireland*, as subjects of the king, were "*under the admiralty of England as to things done on the high sea*;" which is a strong confirmation given by the judges of *England*, to the supposition before made, of the power of regulating trade being formerly vested in the king. *Thirdly*, that the opinion of the chief justice, and of the other justices, such as it was, "reddendo singula singulis, & secundum subjectam materiam," proves at most, only that *Ireland* was bound *by statutes regulating their trade*, for such was the 2 *Henry* 6th ch. 4th on which the case arose. *Fourthly*, that *Brooke*, a man of great eminence and dignity in the law, appears by his note, to have been dissatisfied with the judgment, though only on a statute of regulation, for *this* reason of such weight with an *Englishman*—"because *Ireland* is a realm of itself and has a parliament within itself." *Fifthly*, that the authority of the crown, including the regulation of the trade of *Ireland*, and sending writs of error there, were sufficient restraints, to secure the obedience and subordination of that kingdom. This reason seems to have held its ground, till lord chief justice *Coke*'s time; and though a great reverence is entertained for his memory, yet it can never be acknowledged, that an "*obiter dictum*" of his, or of any other man, is a rule of law. In *Calvin*'s case, the chief justice reciting the foregoing case, says, "*Hibernia* habet parliamentum, & faciunt leges, & nostra statuta non legant eos, QUIA non mittunt milites ad parliamentum (which "adds he," is to be *understood*, unless they be *especially named.*) And does the "especially naming them" give them a representation, or remove the injustice of binding them without it? This observation in plain English would run thus: "Our statutes do not bind the people of *Ireland*, when we *do not intend* to bind them, BECAUSE, they are not represented in our parliament; but our statutes bind them, when we *intend* to bind them." What is this but saying—"that to speak of their not being represented, is a mere jargon;

to *America*, is ſuch a power as Mr. Juſtice *Blackſtone* deſcribes in theſe words, " whoſe enor-

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jargon; and the ſole point is, whether it is our *will* to bind them"—or in other words—" that our ſtatutes do not bind them, for a reaſon as ſtrong as man can give, and ſo acknowledged by us to be, which yet is no reaſon at all: for, where there is no occaſion for its operation, it applies not; and where there is occaſion, it is of no force." His Lordſhip had juſt before taken notice that " a writ of *error* did lie in the king's bench of *England* of an erroneous judgment in the king's bench of *Ireland*;" and perhaps that led him in the courſe of his argument to imagine, there might be a like pre-eminence of the parliament of *England* over that of *Ireland*. That this was his reaſon ſeems certain, becauſe at a meeting of commiſſioners to conſider of a projected union between *England* and *Scotland*, at which the chief juſtice was preſent—Moor 796, it is ſaid, " that parliament has power over *Ireland*, AS IS PROVED by that a writ of error may be brought of a judgment in the king's bench of *Ireland*." In the 4th inſt. he alſo ſays the people of *Guernſey*, *Jerſey* and *Man* are not bound by the ſtatutes of *England*, unleſs they are ſpecially named. Yet whoever examines the ſtatutes relating to *Ireland*, *Guernſey*, *Jerſey* and *Man*, will have very little cauſe to believe, that it has been thought in *England*, that ſtatutes would generally bind the people of thoſe countries, notwithſtanding the ſubjection of *Ireland*, and the other iſlands, the many diſtreſſes of the former, and the weakneſs of the latter have afforded opportunities of extending ſuch a power over them. With reſpect to all theſe places ſcarce a ſtatute can be found of *any* period, but for the regulation of their trade. The ſame obſervation may be made as to *Gaſcoigny*, *Guienne*, and *Calais*. Juſtice *Wylde*, in 2 *vent* 5, ſaid, " he had ſeen a charter whereby theſe places were recited to be united *to England by mutual pact*. And writs of error run thoſe." " *Wales* was a conquered country, and the people ſubmitted to *Edward* the Firſt de *alto* et *baſſo*."

Whatever pretence the chief juſtice's opinion was founded on, it has been carefully repeated in many law books ſince. Whether his lordſhip meant, that ſtatutes of *England* could *bind* the people of *Ireland*, in taking away trials by

enormous weight ſpreads horror and deſtruction on all inferior movements." The firſt is by jury,—taxing them, and "*in all caſes whatſoever*," or only in preſerving their ſubordination, as by regulating their trade, which was the caſe referred to in his comment, does not appear. The parliament, in declaring the dependence of *Ireland*, did not *venture* to claim a power of binding the people of that kingdom "in all caſes whatſoever."* With reſpect to all theſe declarations, however, as they are made to refer to us, we may anſwer as the lion did to the man in the fable.

Much the ſame arbitrary conſtruction has been made on the queſtion, whether a man could be tried in *England* on a charge of committing treaſon in *Ireland*. In queen *Elizabeth*'s reign, "*Gerrade*, chancellor of *Ireland*, moved that queſtion to the counſel of the queen, and it was held by *Wray*, *Dier*, and *Gerrarde*, attorney general, he could not, becauſe he was a ſubject of *Ireland* and not of *England*, and if tried in *England*, he could not be tried by his peers." *Dier*, 360. Afterwards, to gratify the queen's reſentment againſt ſome rebels, they were tried in *England*; and thus paſſion and complaiſance made very good law againſt reaſon and juſtice.

Having mentioned *Calvin*'s caſe, it may not be improper to obſerve, that if the author of "the controverſy" had taken the trouble of reading it, he might have found his perplexities removed on the queſtion that has given him ſo much anxiety, and brought ſuch a load of reproaches on the colonies. He is provoked at our inſolence for pretending to be any thing more than *aliens* in *England*, while we deny the power of parliament to bind us "in all caſes whatever." In that caſe, the gentleman would have diſcovered, that the judges of *England* held, that a man born in *Scotland*, *under the allegiance of James* the Firſt, after his acceſſion to the throne of *England*, was entitled to all the rights of a ſubject born in *England*; though the objection, that ſtatutes of *England* could not bind *Scotland*, or a man reſiding there, who held lands in *England*, was mentioned in the courſe of the argu-

* Nor, to this day does parliament tax them, &c. And therefore the inference is juſt, that neither they nor the chief juſtice meant ſuch a power.

is a power ſubject to a conſtitutional check. *Great Britain* cannot injure us by taking away our commerce without hurting herſelf *immediately*. The laſt is a power without check or limit. She might ruin us by it. The injury thereby to herſelf might be *remote* as to be deſpiſed by her.

THE power of regulation was the only band that could have held us together; formed on one of theſe "original contracts,"—which only can be a foundation of juſt authority. Without ſuch a band, our general commerce with *foreign nations*, might have been injurious and deſtructive to her. Reaſon and duty reject ſuch a licence. This our duty reſembles that of children to a parent. The parent has a power over them: but they have rights, what the parent cannot take away. Heaven grant that our mother country may regard us as her children, that if, by the diſpenſation of Providence, the time ſhall come, when her

 power

argument. The great difficulty being got over, if the gentleman will go a ſtep farther, and perceive ſome little diſtinction between colonies proceeding out of the loins of *England*, and the "*conquered*" countries of *Ireland* and *Wales*,—the countries of *Gaſcoigny*, *Guienne*, and *Calais*, "*united by mutual pact to* England," and the iſlands of *Guernſey*, &c. "*lying within the four ſeas, whoſe ſovereigns annexed them to* England:" and will only allow the coloniſts a *little more* regard than is *profeſt* in law books for *thoſe countries*, and *about as much* as has been *actually obſerved* towards them by parliament, he will have no further occaſion to ſay ſevere things of thoſe who are willing to eſteem him; and then, if he can perſuade his worthy countrymen to adopt his ſentiments, their anger will no longer give pain to thoſe who almoſt adore them.

power increaſes the memory of former kindneſſes, may ſupply its decays, and her colonies, like dutiful children, may ſerve and guard their aged parent, for ever revering the arms that held them in their infancy, and the breaſts that ſupported their lives, while they were little ones.

It ſeems, as if the power of regulation might not inaptly be compared to the prerogative of making peace, war, treaties, or alliances, whereby "*the whole* * *nation are bound* AGAINST THEIR CONSENT:" and yet the prerogative by no means implies a *ſupreme legiſlature*. The language held in "the Commentaries" on this point is very remarkable. "With regard to FOREIGN CONCERNS the king is the *delegate* or *repreſentative* of the people; and in him, as in a *center*, all the *rays* of his people are united †; and the SOVEREIGN POWER *quoad hoc* is veſted in his perſon ‡." Will any *Engliſhman* ſay theſe expreſſions are deſcriptive of the king's authority, WITHIN THE REALM? "Is the SOVEREIGN POWER *within that* veſted in his perſon? He is ſtiled "*ſovereign*" indeed; "his realm is declared by many acts of parliament an *empire*, and his crown *imperial*." But do theſe ſplendid appellations, the higheſt known in *Europe*, ſignify, that "*ſovereign* POWER is veſted in his perſon *within the realm?*" We have a full anſwer in the Commentaries. "The *meaning* of the legiſlature, when it uſes theſe terms

* 1 Blackſt. 252, 257. † Fol. 252. ‡ Fol. 257.

terms of *empire* and *imperial*, and *applies* them to the realm and crown of *England*, is *only* to aſſert, that our king is equally *ſovereign* and *independent* within theſe his dominions; and *owes no kind of ſubjection* to any potentate upon earth. Thus WE maintain, that with regard to FOREIGN AFFAIRS, the parent original ſtate "is the *delegate* or *repreſentative*" of the entire dominions, "the *ſovereign power* QUOAD HOC is veſted" in her. Her acts under this power "irrevocably bind the whole nation." But yet this power by no means implies *a ſupreme legiſlature*.

THE exerciſe of this power *by ſtatutes* was abſolutely neceſſary; becauſe it was, and could only be lodged, as the laws of the parent ſtate ſtand in the ſupreme legiſlature of that ſtate, conſiſting of king, lords, and commons; and *ſtatutes* are the modes by which theſe united ſentiments and reſolutions are expreſt. It is univerſally acknowledged in *Great Britain*, that it infers no power of *taxation* in king and lords, that their *limited* authority is uſed in cloathing, *gifts and grants of the commons* with the *forms of law*—nor does it infer *ſupreme legiſlature* over us, that the *limited* authority of king, lords, and commons is uſed in cloathing *regulations of trade* with the *form of law*. The commons joining in the law, is not material. The difference is only in the mode of aſſent. Theirs is *expreſs*, ours is *implied*, as the aſſent of the "whole nation" is, in the preceeding inſtances.

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THIS power of regulation appears to us to have been pure in its principle, ſimple in its operation, and ſalutary in its effects. But for ſome time paſt we have obſerved, with pain, that it hath been turned to other purpoſes, than it was originally deſigned for, and retaining its title, hath become an engine of intolerable oppreſſions and grievous taxations. The argument of an eminent judge ſtates the point in a ſimilar caſe ſtrongly for us, in theſe words.—" Though it be granted, that the king hath the *cuſtody* of the *havens* and *ports* of this iſland, being the very *gates* of this kingdom, and is *truſted* with the *keys* of theſe *gates*; yet the *inference* and *argument* thereupon made, I utterly deny. For in it there is *mutatio hypotheſis*, and a *tranſition* from a thing of *one* nature to *another*; as the *premiſes* are of a *power only fiduciary*, and in *point of truſt and government*, and the *concluſion* infers a *right of intereſt and gain*. Admit the king has *cuſtodiam portuum*, yet he hath but the *cuſtody*, which is a *truſt* and not *dominium utile*. He hath power to *open* and *ſhut*, UPON CONSIDERATION OF PUBLIC GOOD TO THE PEOPLE AND STATE, but not to make *gain* and *beneſit* by it: the *one* is PROTECTION, the *other* is EXPILATION." By common law the king may reſtrain a ſubject from going abroad, or enjoin him by his chancellor from proceeding at law: But to *conclude*, that he may *therefore take money*, not to reſtrain or not to enjoin, IS TO SELL GOVERNMENT, TRUST, AND COMMON JUSTICE *.

* Rights of the people, as to impoſitions.

THE END.

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